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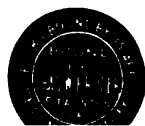
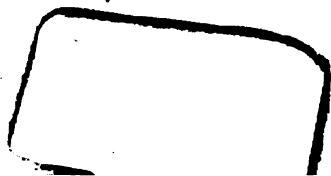
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House of Lords, 1740

THE
HISTORY and PROCEEDINGS
OF THE
HOUSE of LORDS,
FROM THE
RESTORATION in 1660,
TO THE
PRESENT TIME.

CONTAINING,
The most Remarkable MOTIONS, SPEECHES,
DEBATES, ORDERS and RESOLUTIONS.

Together with all the PROTESTS during that Period.

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and HISTORY of the TIMES.

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Illustrated with HISTORICAL NOTES and OBSERVATIONS.

Together with the DEBATES in the Parliament of SCOTLAND
relating to the UNION.

To each VOLUME are added proper INDEXES.

VOLUME the SIXTH, from 1738, to 1740.

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T H E

C O N T E N T S

O F

T H I S V O L U M E.

From *Feb. 5, 1738-9, to Feb. 19, 1739-40.*

CONVENTION laid before the House of Lords, *Page 1.* Lord *Carteret's* Speech on that Occasion, *ib.* Earl of *Cholmondeley's* Speech, *p. 3.* Lord *Carteret's* Reply, *p. 5.* Duke of *Newcastle's* Speech, *p. 6.* Lord *Carteret's* Reply, *p. 7.* Two other Speeches and Replies, between the said Lord and the Duke of *Newcastle*, *p. 8, 9.* Earl of *Strafford's* Speech, *p. 9.* The Convention, *p. 10.* The separate Articles, *p. 13.* Copy of the Declaration made on the Part of the King of *Spain*, before he ratify'd the Convention, *p. 16.* Lord *Delawar's* Speech against a Satire, entitled *MANNERS*, *ib.* The said Satire voted a Libel, *p. 17.* Motion for taking the Author into Custody, *ib.* Debate thereon, *p. 18.* A Motion to take the Printer into Custody, Debate thereon, *p. 19.* Lord *Carteret's* Speech, *ib.* Earl of *Abington's* Speech, *ib.* Lord *Lovel's* Speech, *p. 20.* Lord Chancellor's Speech, *ib.* Lord *Talbot's* Speech, *p. 23.* The Question carried in the Affirmative, *ib.* Motion for examining the *South-Sea* Directors, *ib.* Lord *Bathurst's* Speech, *p. 24.* Lord *Hervey's* Speech, *p. 26.* Earl of *Isle's* Speech, *p. 29.* Duke of *Argyle's* Speech, *p. 30.* Question pass'd in the Negative, *p. 34.* Petitions against the Convention, *p. 35.* Duke of *Bedford's* Speech thereon, *ib.* Lord *Carteret's* Speech, *p. 37.* Earl of *Isle's* Speech, *p. 38.* Lord *Delawar's* Speech, *p. 39.* Lord *Carteret's* Speech, *p. 40.* Lord *Delawar's* Speech, *p. 42.* Earl of *Abington's* Speech, *ib.* Lord Chancellor's Speech, *p. 43.* Earl

The C O N T E N T S.

Earl of *Chesterfield's* Speech, p. 44. Vote in Favour of the Petitioners, p. 45. Convention taken into Consideration, *ib.* Earl of *Cholmondeley's* Speech, *ib.* and Motion for an Address of Approbation, p. 54. Debate thereon, p. 55. Lord *Carteret's* Speech, *ib.* Dr. *Sherlock*, Bishop of *Salisbury's* Speech, p. 71. Duke of *Argyle's* Speech, p. 84. Lord Chancellor's Speech, p. 96. Lord *Carteret's* Speech, p. 106. Earl of *Cholmondeley's* Speech, p. 115. Earl of *Chesterfield's* Speech, p. 117. Lord *Hervey's* Speech, p. 134. Lord *Bathurst's* Speech, p. 150. Earl of *Isle's* Speech, p. 170. Division on the Question, p. 181. Lords Address and his Majesty's Answer, *ib.* Speakers for and against the Address, p. 182. A List of Voters for and against the said Address, p. 183. Protest on this Occasion, p. 185. A Message for a Settlement on the younger Children of the Royal Family, and Debate thereon, p. 188. Lord *Delawar's* Speech, 189. Lord *Carteret's* Speech, *ib.* Duke of *Newcastle's* Speech, p. 191. Lord *Talbot's* Speech, p. 192. Lord *Chesterfield's* Speech, *ib.* Lord Chancellor's Speech, p. 193. Lord *Hervey's* Speech, p. 194. Lord *Bathurst's* Speech, p. 195. Duke of *Newcastle's* Speech, p. 196. Lord *Carteret's* Speech, 199. The Lord Chancellor's Speech, p. 207. Duke of *Argyle's* Speech, p. 212. Earl of *Chesterfield's* Speech, p. 218. The Lords Address on Occasion of the said Message. and his Majesty's Answer, p. 226, 227. A Clause for paying 60,000*l.* to *Spain*, in Virtue of the Convention, read, and the Debate thereon, p. 227. Lord *Bathurst's* Motion for an Address, to know whether *Spain* has paid the Money stipulated by the Convention, *ib.* Debate thereon, p. 228. The Speeches of the Duke of *Newcastle*, and Earl of *Aylsford*, *ib.* The Duke of *Argyle's* Speech, p. 229. The Motion over-rul'd, p. 230. Debate on the State of the Nation, *ib.* The Lord *Carteret's* Speech, *ib.* and Motion, that *Spain's* not paying the 95,000*l.* is a Breach of the Convention, p. 232. Lord *Hallifax's* Speech, p. 232. Duke of *Newcastle's* Speech, *ib.* The Earl of *Chesterfield's* Speech, p. 233. Earl of *Cholmondeley's* Speech, p. 235. Lord *Bathurst's* Speech, *ib.* Lord *Hervey's* Speech, p. 236. Lord Viscount *Lonsdale's* Speech, p. 237. The Lord Chancellor's Speech, *ib.* Duke of *Argyle's* Speech, p. 238. The Earl of *Scarborough's* Speech, p. 239. Division upon the Question, p. 240. King of *Spain's* Manifesto, *ib.* and Reasons for not paying the 95,000*l.* stipulated in the Convention, p. 242. His Majesty's Declaration of War against the King of *Spain*, p. 249. The

The C O N T E N T S.

The Sixth Session of the Second Parliament of *King George II.* p. 252.

Debate on the Address of Thanks, *ib.* Lord *Hinton's* Speech, *ib.* Lord *Carteret's* Speech, p. 256. The Duke of *Newcastle's* Speech, p. 266. Duke of *Bedford's* Speech, p. 274. Lord *Talbot's* Speech, p. 276. The Earl of *Chesterfield's* Speech, p. 284. Lord *Hervey's* Speech, p. 290. The Earl of *Scarborough's* Speech, p. 295. The Lord Chancellor's Speech, p. 321. Earl of *Winchelsea's* Speech, p. 324. The Duke of *Argyle's* Speech, p. 327. The Lord Chancellor's Speech, p. 334. The Lord *Barbours's* Speech, *ib.* The Earl of *Isla's* Speech, p. 335. Division on the Question, p. 336. Lords Address, *ibid.* King's Answer, p. 337. Debate on a Message sent to the Commons only, p. 338. The Earl of *Hallifax's* Speech, *ib.* The Lord *Delawar's* Speech, p. 341. The Lord *Talbot's* Speech, p. 343. The Lord Chancellor's Speech, p. 345. The Lord *Carteret's* Speech, p. 346. The Earl of *Cholmondely's* Speech, p. 348. The Lord *Ouseflow's* Speech, p. 349. The Lord *Delawar's* Speech, p. 350. The Lord *Carteret's* Speech, *ib.* The Duke of *Newcastle's* Speech, p. 356. The Earl of *Chesterfield's* Speech, p. 359. The Lord Chancellor's Speech, p. 363. The Lord *Carteret's* Speech, p. 366. Division upon the Question, p. 372. Debate upon the Pension-bill, *ib.* Lord *Walpole's* Speech, *ib.* The Lord *Talbot's* Speech, p. 375. The Earl of *Hallifax's* Speech, p. 377. The Lord *Hinton's* Speech, p. 380. The Earl of *Carlisle's* Speech, p. 383. The Earl of *Cholmondely's* Speech, p. 374. The Duke of *Argyle's* Speech, p. 393. The Bp. of *Salisbury's* Speech, p. 399. The Lord *Carteret's* Speech, p. 403.

T H E





THE
HISTORY and PROCEEDINGS
OF THE
HOUSE of LORDS,
WITH THE
DEBATES and PROTESTS therein.



E B. 5. 1738-9. The Duke of *Newcastle*, Ann. 12 Geo. II.
1738-9.
by his Majesty's Order, laid before the
House of Lords, a Copy of the Conven-
tion between *Great Britain* and *Spain*,
concluded at the *Pardo*, *January* 14, 1739. Convention laid
before the House
of Lords.
N. S. with Copies of the two separate Ar-
tic'les, and his Majesty's and the King of
Spain's Ratifications, together with Translations of all of
them.

Whereupon the Lord *Carteret* stood up and spoke as
follows :

' My Lords, I hope your Lordships will pardon me, if I Lord *Carteret*
shall presume to trouble your Lordships, by imparting to the
House some few little Scruples I have, with regard to the
Papers delivered in to your Clerk by the noble Duke.
Your Lordships are, no doubt, sensible how much Reason
we all have to be jealous of every Step that we now take
1738-9. A in

Ann. 12 Geo. II.
1738-9.

in this important Affair; you are sensible how much we have been already imposed upon in all our Negotiations with *Spain*, and how intent the Eyes of all the Nation are upon your Lordships Proceedings on this Occasion. These Considerations, my Lords, will, I hope, serve to excuse my Diffidence, especially when I assure your Lordships that I now stand up, not with any Intention to embarrass the noble Duke, or any of the Ministry, but to contribute, as much as I possibly can, towards your Lordships having a clear and distinct Notion of all this Transaction.

• The noble Duke has been pleased to inform the House, that he has, by his Majesty's Orders, communicated to your Lordships the Convention between his Majesty and *Spain*, together with the separate Articles, and the Ratifications; and I think, my Lords, we ought all of us to be sensible of his Majesty's great Condescension in communicating them so early in the Session.

• But, my Lords, I have known, where a Transaction of this kind has happen'd, that one of the contracting Powers has presented a Protest, or Declaration, importing, that she acceded to such or such a Measure, only upon Condition that the Terms of that Protest or Declaration should be made good: Nay, my Lords, I have known Instances when it has been particularly express'd in such a Protest, that if the Terms requir'd were not fulfill'd, the whole Proceeding should be invalid. My Lords, it is with the greatest Reluctance imaginable that I presume to suggest that this possibly may be the Case at present; I have too good an Opinion of our Ministry's Zeal and Abilities to assert that it is: But give me leave to say, my Lords, that *Spain* has behav'd with so much Insolence and Injustice, that we can suppose nothing so insolent and unjust which she may not be guilty of: Our Ministers, my Lords, with the purest Intentions in the World, may be imposed upon; they may not foresee the Consequences of such a Step. My Lords, I have known it to have had very bad Consequences, and therefore I am the more jealous of every Transaction where any such Protest may take place. If, my Lords, no such Step has been taken in this Transaction, as I am very far from affirming that there has, it will be of the greatest Consequence to the Government, that those without Doors be made easy upon that Head; for, my Lords, though I believe no Lord here thinks that any such Measure is gone into, yet I can assure your Lordships that such an Opinion, I cannot conceive how it arose, is entertained without Doors. It will likewise be of the greatest Consequence to your Lordships, in the Judgment you are to make upon this Convention,

Convention, if you are informed, by Authority, that no such Protest, or Declaration, on the part of *Spain*, exists. For my own part, my Lords, I frankly own to your Lordships, that I am not free to give my Sentiment on any one part of a Transaction of this kind, without seeing the whole of the Transaction. For, my Lords, the Judgment which any Lord of this House may form of it upon seeing the Convention alone, may be very just and right; but if the same Lord considers it as clogg'd with a Protest affecting the whole, he may see very good Causes for altering his Opinion. So that, my Lords, till such time as my Mind is free from the most distant Suspicion that such a Paper may exist, I can never form a just Opinion, myself, nor can I communicate to, or receive from your Lordships any Light that may be necessary for that Purpose. Your Lordships are the best Judges in what manner such an Information ought to be communicated to the House. What I have suggested to your Lordships, is, as I humbly conceive, so reasonable in itself, that I dare say the noble Duke, and those who have had the honour to be in the Secret of this Transaction, will be extremely glad to have this Opportunity of vindicating their own Characters, by letting this House, and all the World see, that they have entered into no scandalous, no clandestine Measures, and that, while they consulted the Peace of the Nation, they had a Regard to its Honour and Interest.

The Earl of *Cholmondeley*.

* My Lords, it is with the greatest Satisfaction that I observe in the noble Lord, who spoke last, so much Candour, and such a Desire to be impartially inform'd of the true State of Affairs betwixt us and *Spain*. The noble Lord's Sentiments will have great Weight with me, as I believe they will with every Lord in this House. The noble Lord has been so much engaged in Foreign Affairs, and discharged every Character he filled with so much Capacity, that he must be extremely well versed in Things of that Nature. But, my Lords, I must beg Leave to put your Lordships, and the noble Lord, in mind, that the Forms of this House are not to be dispensed with on this, or any other, Occasion. Your Lordships, I dare say, are sufficiently sensible how much they contribute to the Continuance of our Power; and, my Lords, we have as much Reason to preserve them upon the present Occasion, as upon any Occasion I can recollect, since I have had the Honour to sit among your Lordships.

Earl of *Cholmondeley*.

Ann. 12 Geo. H.
1738-9.

' If I am so happy as to apprehend the noble Lord's Meaning who spoke last, his Lordship desires that the House may be inform'd, if there are any other Papers that have been signed by our Ministers here, or at the Court of *Spain*, relating to the Convention, besides those deliver'd to the House. My Lords, I think the noble Lord's Question extremely improper to be answer'd here. His Lordship cannot be properly inform'd but by One, who has the honour to be one of his Majesty's Council ; and we cannot suppose that such a Person will divulge, even to this House, a Secret which perhaps he is sworn to conceal. Your Lordships may, indeed, address his Majesty to know if all the Papers, that have passed betwixt us and *Spain*, are comprehended in those that the noble Duke has now deliver'd to the House ; but, my Lords, such an Address would be quite unprecedented, and, give me leave to say, unreasonable ; for his Majesty would, no doubt, order the Secretary to inform the House that they are not ; and if your Lordships should insist on seeing them all, it would occasion a very needless piece of Trouble and Expence ; for they have been so many, that the very copying them over must employ all the Clerks in the Secretaries Office for some Days, if not Weeks. For my own part, I think I am able to form a Judgment of any Treaty or Convention, if that Treaty or Convention is laid before me. It is true, if the terms of it should run so far as to refer to a Paper I have never seen, it is absolutely necessary that I should see that Paper ; but if that is not the Case, I am to be determined by what I do see, and will consider what is laid before me as the whole of that Transaction. If, when your Lordships shall come to consider this Convention, you shall see reason for suspecting any such Management as the noble Lord who spoke last has hinted at, I shall be very willing to concur with every Motion that may serve to give your Lordships the necessary Information ; but in the mean Time I shall beg leave to take it for granted, that the Papers now deliver'd in, are all that are necessary for my forming a right Judgment of this Transaction ; and while I do that, my Presumption is certainly on the most probable side. But were I of any other Sentiments, I don't think that what the noble Lord has let fall ought to be any Reason why your Lordships should expect any immediate and direct Answer. If the noble Lord has a Motion to make, I shall hear it with great Pleasure, and it may be now debated ; but I am humbly of Opinion, that if his Lordship does not reduce what he has to say to a regular Motion, we ought to proceed upon the Business of the Day.'

The

The Lord Carteret.

Lord Carteret.

‘ My Lords, when I threw out my distant Surmises with great simplicity of Heart, I did not think that they would have occasioned so long an Answer from the noble Lord who spoke last. What fell from me, my Lords, was as I apprehended, so evidently calculated for your Lordships better Information in this Important Affair, that I did not think it would have met with the least Opposition. But, my Lords, from some Things I observed in the noble Lord’s Speech who spoke last, my Suspicions begin to be a little confirmed. The noble Lord is pleased to entertain a more favourable Opinion of me than I deserve, but I must beg his Lordship’s pardon when I say that he has misapprehended my Meaning. I did not mean, my Lords, to make any Motion, nor so much as to start any Difficulty ; all I intended was to give the noble Duke who delivered the Papers, or any other who has the Honour to be in his Majesty’s Councils, an Opportunity of undeceiving the House with regard to a Report, that is now very current, and very prejudicial to his Majesty’s Interests. I imagined, my Lords, that every Lord, who is a Friend to the Ministry, would have been glad of such an Opportunity to vindicate their Integrity, and that the Ministers themselves would have joyfully embraced it. But, my Lords, instead of that, to my Surprise, I find it objected, that what I hinted at was not according to *Form*, and therefore that it ought to be disregarded. My Lords, I did not intend to make a *formal* Motion ; I thought it looked much better not to do it, because what is done in consequence of a formal Motion, carries an Air of Constraint along with it, and lays a Minister under an Obligation to comply ; whereas, when he readily and chearfully takes the Hint, and vindicates his own and the Nation’s Honour, he removes at once all Suspicion, and leaves a very favourable Impression of his own Conduct.

‘ I am as much for keeping to our Forms, my Lords as the noble Lord who spoke last, or any other Lord in this House ; but, my Lords, I am far from thinking them equally essential on all Occasions. The Papers that are now communicated to the House by the noble Duke were not communicated in consequence of any Address to his Majesty, and therefore, my Lords, the noble Duke may regularly, without waiting for any such Address, if his Grace pleases, inform the House, if any Papers relating to this Convention, besides those now given in, have been subscribed by our
Ministry

Ann. 12 Geo. II.
1738-9.

Ministry, or by that of *Spain*. I do not mean; my Lords, those Papers that must have necessarily preceded the signing the Convention, but those that may be immediately connected with it: Papers, my Lords, upon the Validity of which this Convention is, perhaps, to stand or fall. If any such exist, I humbly presume, none of your Lordships can doubt of their being absolutely necessary to be laid before us.

* I am very sensible, my Lords, that we have no Right to require the noble Duke to give a full and explicit Answer to this; but if his Grace does, it will save the House a great deal of Time; and I am so much convinced of his Grace's Honour and Integrity, that I, and every Lord, I believe, of the House, will be determined by what his Grace shall say on that Head. As to violating an Oath of Secrecy, my Lords, I think there is no Danger of that; for if there is any Paper such as I have mentioned, it must be soon known to all the World, and it is already known to a great many. It is no Transaction of his Majesty's Council, and the owning or disowning such a Thing can never affect his Grace as a Counsellor.'

The Duke of *Newcastle*.

Duke of *Newcastle*.

* My Lords, your Lordships must be sensible what a Hardship I am laid under by being obliged to speak upon this Occasion. The noble Lord who spoke last has put it upon me to answer a Question, which I conceive the noble Lord, as a Member of this House, has no Right to ask, and I, as a Minister, am under no Obligation to answer. I thought that what was urg'd by the noble Lord who sits over-against me, was sufficient to have prevailed upon the noble Lord who spoke last, to have push'd this Affair no farther. I have, by his Majesty's Order, laid before your Lordships the Convention, with its separate Articles and Ratifications. His Majesty's Intention in giving these Orders was, that your Lordships might thereby be enabled to form a right Judgment of this Transaction. If any other Papers had been requisite for this Purpose, your Lordships need not doubt of his Majesty's Willingness to communicate them to the House. As no such, my Lords, have been communicated, your Lordships may be very well assur'd that those now given in are sufficient for all the Purposes mentioned by the noble Lord who spoke last.

* But, my Lords, as the noble Lord seems to expect from me some more positive Declaration as to this Matter, I am very willing to go as great a Length as is consistent with the Character

rafter I have the Honour to bear. And, my Lords, give me leave to assure your Lordships, that the Papers now laid before you are the only Papers that have been fubfcribed by our Minifters at the Court of *Spain* relating to the Conclusion of the Convention. This, my Lords, I take upon me to affirm to your Lordships, and I hope this Answer will be fatisfactory to the Houfe. If any other Paper was fign'd by our Minifters on that Head, it has not yet come to my Knowledge, nor I believe of any Lord in the Houfe, and I dare venture to fay, that they could not have been fo long concealed.

Apr. 12 Geo. III.

1738-9.

The Lord Cartwright.

‘ My Lords, I think the Houfe is very much obliged to the noble Duke who fpoke laft : His Grace knows too much of this Tranfaction to be mistaken ; and, for my own part, I have no manner of Doubt, that the Papers now given in to the Houfe are all the Papers that were fign'd on the part of our Miniftry. My Lords, I never doubted of that ; but I wifh the noble Duke had, with the fame Franknefs, declared if he knew of any Paper relating to, and immediately connected with this Convention, that was fign'd on the part of *Spain*, and tranfmitted to our Court. If the noble Duke will affirm, that he knows of no fuch Paper, my Doubts, my Lords, are at an end. But, my Lords, if his Grace fhall make any Difficulty to do this, I fhall immediately conclude, that fome fecret Meafure, fome private Tranfaction, not fit to be communicated to the World, nor laid before your Lordships, has been entered into : I fhall conclude, my Lords, that however follicitous we have been to procure from *Spain* this Convention, yet we could not even have procured that, had we not made fome private Concefions, that deftroy all the feeming Advantages which we are to reap by this Convention. My Lords, I do not know what this Convention is, I have heard it both blamed and approved : But let its Stipulations be never fo much in our Favour, I, my Lords, will look upon them as mere Grimace, unlefs the who'e of the Tranfaction be laid before your Lordships. I fhall not trouble your Lordships any further on this Head. I hope I have fufficiently explained to your Lordships my Meaning ; but I hope no Lord will be for our entering into the Confideration of this Convention, before he is certainly informed of every material Circumftance that has any Relation to it.’

Lord Cartwright.

The

Ann. 12 Geo. II.

1738-9.

Duke of New-
castle.

The Duke of Newcastle.

' My Lords, I thought I had before sufficiently obviated all the Doubts that the noble Lord entertained upon this Occasion. I imagined, my Lords, that it was sufficient for the Satisfaction of the House, if I declared, that the Papers given in, were all the Papers that have been signed by our Ministers at the Court of *Spain*, relating to the Conclusion of this Transaction. I believe it is pretty well understood, that if our Ministers, either here or at that Court, have sign'd no other Paper, there is no other Paper that can affect this Convention. If, my Lords, no other Paper can affect this Convention, but those now deliver'd in to your Lordships, I humbly conceive, that your Lordships have all necessary Lights towards judging aright of this Transaction.'

The Lord Carteret.

Lord Carteret.

' My Lords, I should not have again troubled your Lordships upon this Subject, were I not sorry to find that I have been so unfortunate as not to explain myself clearly enough to be intelligible to the noble Duke. A Paper, my Lords, though only sign'd by one of the contracting Parties, in a Negotiation of this kind, may, in certain Cases, and attended with certain Circumstances, be as binding upon the Party not signing, as if they had actually sign'd it. I don't know, my Lords, if there is any such Paper relating to this Convention now existing, far less do I know in what Terms it is conceiv'd, or in what Manner it was deliver'd. But whether there is, or is not, it is certainly reasonable that we should be acquainted with the Import of every Paper connected with this Transaction, or that those without Doors should be made easy on that Head. The Doubt therefore, which, with great Submission, I want to be resolv'd in, is, Whether any Paper relating to this Convention, and declaring it void, if the Terms contain'd in that Paper were not comply'd with, was at any time deliver'd by the Ministers of *Spain* to those of *Great-Britain* ?'

The Duke of Newcastle.

Duke of New-
castle.

' My Lords, I have nothing to add to what I have already declar'd to your Lordships, but that there was, indeed, a Paper given to our Ministers by that of *Spain*, relating to the Affairs of the *South-Sea-Company*. This Paper, my
Lords,

Lords, relates to a private Transaction betwixt the *Spaniards* and that Company; and I could never have imagined that it could have created such Apprehensions in any body, as the noble Lord seems to express. That Company, my Lords, have many Transactions with the Court of *Spain*, and if some Misunderstanding sometimes happens betwixt them, it is not at all to be wonder'd at; but we can never suppose that their private Transactions, and the Concerns of the Nation, depend upon one another. The *Spanish* Ministers might, if they had pleas'd, have sent fifty Papers to our Ministers on that Head, but I never imagin'd that any Lord would have thought it material that these Papers should be communicated to this House. The Paper, or Protest, or Declaration, call it what you please, that is now in question, pass'd through my Hands, and was some Days ago transmitted to the Company. If any of your Lordships are of Opinion that it should be laid before the House, I shall very readily concur with the Motion. My Lords, I will go farther, I will undertake to have it deliver'd to your Lordships, as the Papers now given in have been, without any motion being made for that Purpose; though, my Lords, I don't think it at all material, whether it is laid before your Lordships or not.'

The Lord Carteret.

'My Lords, I now stand up to make a Motion; but I think it very proper to return my Acknowledgments to the noble Duke, for condescending so readily to answer the Doubt I had propos'd. It was, my Lords, with the greatest Diffidence in the World, that I mentioned it to your Lordships; and, my Lords, it is not without a secret Satisfaction, that I observe, there was at least a Foundation for my Suspicions. Therefore, my Lords, as the noble Duke has promis'd, that the Paper in question shall be communicated to the House, I humbly move, That the Convention, together with the separate Articles, and the several Ratifications, concluded betwixt their *Britannic* and *Catholic* Majesties, may be read on *Tuesday* next.'

The Earl of Strafford spoke next as follows,

'My Lords, It is with a kind of Surprize that I have heard what pass'd betwixt that noble Duke and the noble Lord who spoke last. In the mean time, it is no hard Matter to foresee, that this Convention must employ a great

Ann. 12 Geo. II.
1738-9.

deal of our Time. The noble Lord who spoke last has so penetrating a Head, his Intelligence is so good, and he has been so long used to Affairs of this kind, that I have no Doubt his Lordship is already acquainted what the Terms of this Convention are. The noble Duke, my Lords, besides all these Advantages, has that of having actually seen this Transaction, and, no doubt, has had a great Hand in concluding it; so that I do not wonder if both these noble Lords are for delaying our reading it for some Days longer. But, my Lords, as I own my Comprehension is but very small, and my Curiosity very great, I think we cannot do better than to have it now read for the first time, and to delay the second Reading to the Day moved by the noble Lord. This, my Lords, in my Judgment, would have two good effects: In the first place, Lords can see what the Nature and Tendency of this Convention are, and they who are hitherto unacquainted with it, will have some Time to make Reflections upon it, and will come more ripe for debating it, if there is Occasion, on the second and third Reading. In the next place, my Lords, no Lord here can be ignorant that very odd things have been said, and, I believe, very groundless Surmises have been spread abroad, with regard to this Convention. These Reports, my Lords, cannot fail to have made a considerable Impression on the Minds of many of his Majesty's Subjects; and the longer, my Lords, such Impressions are suffered to remain, the more difficult it is to remove them. Therefore, my Lords, as I believe the Convention will very much disappoint the mean Opinion the World has now of it, I think the sooner it is made known to the public, the better. This, my Lords, is my Opinion; I ask Pardon if I am in the wrong; I do not know the noble Duke's or the noble Lord's Motives for delaying the Reading the Convention; I have not the Honour to be in either of the noble Lords' Secrets. I speak my own Sentiments; I speak after no body. And, besides the Reasons, my Lords, I have given for reading the Convention just now, I have another, which is the gratifying my own Curiosity, which, I own to your Lordships, is, upon this Occasion, wound up to a very high Pitch.

Convention read
for the first time.

This Motion was thought so very reasonable, that the former Motion was retracted, and the Convention was read for the first time; which, together with the two separate Articles, was as follows:

1. Whereas

Whereas Differences have arisen; of late Years, between the two Crowns of *Great-Britain* and *Spain*, on account of the Visiting, Searching, and Taking of Vessels, the Seizing of Effects, the Regulating of Limits, and other Grievances alledged on each Side, as well in the *West-Indies*, as elsewhere; which Differences are so serious, and of such a Nature, that, if Care be not taken to put an entire Stop to them for the present, and to prevent them for the future, they might occasion an open Rupture between the said Crowns: For this Reason his Majesty the King of *Great-Britain*; and his Majesty the King of *Spain*, having nothing so much at heart as to preserve and corroborate the good Correspondence which has so happily subsisted, have thought proper to grant their Full Powers, *viz.* his *Britannic* Majesty to *Benjamin Keene*, Esq; his Minister-Plenipotentiary to his Catholic Majesty, and his Catholic Majesty to *Don Sebastian de la Quadra*, Knight of the Order of *St. James*, Counsellor of State, and First Secretary of State and of the Dispatches; who, after previously producing their Full Powers, having conferred together, have agreed upon the following Articles.

Ann. 12 Geo. II.
1738-9.
A Copy thereof.

* Art. I. Whereas the ancient Friendship, so desirable and so necessary for the reciprocal Interest of both Nations, and particularly with regard to their Commerce, cannot be established upon a lasting Foundation, unless Care be taken, not only to adjust and regulate the Pretensions for reciprocal Reparation of the Damages already sustained, but, above all, to find out Means to prevent the like Causes of Complaint for the future, and to remove absolutely, and for ever, every thing which might give Occasion thereto; it is agreed to labour immediately, with all imaginable Application and Diligence, to attain to desirable an End; and for that Purpose there shall be named on the part of their *Britannic* and Catholic Majesties respectively, immediately after the signing of the present Convention, two Ministers-Plenipotentiaries, who shall meet at *Madrid* within the Space of six Weeks, to be reckoned from the Day of the Exchange of the Ratifications, there to confer, and finally regulate the respective Pretensions of the two Crowns, as well with regard to the Trade and Navigation in *America* and *Europe*; and to the Limits of *Florida* and of *Carolina*, as concerning other Points, which remain likewise to be adjusted; the whole according to the Treaties of the Years 1667, 1670, 1713, 1715, 1721, 1728, and 1729, including That of 1738-9.

Ann. 12 Geo. II.
1738-9.

the Assiento of Negroes, and the Convention of 1716; and it is also agreed, that the Plenipotentiaries so named, shall begin their Conferences six Weeks after the Exchange of the Ratifications, and shall finish them within the Space of eight Months.

* Art. II. The Regulation of the Limits of *Florida* and of *Carolina*, which, according to what has been lately agreed, was to be decided by Commissaries on each Side, shall likewise be committed to the said Plenipotentiaries, to procure a more solid and effectual Agreement; and during the Time that the Discussion of that Affair shall, last, Things shall remain in the aforesaid Territories of *Florida* and of *Carolina*, in the Situation they are in at present, without increasing the Fortifications there, or taking any new Posts; and for this Purpose, his *Britannic Majesty* and his Catholic Majesty shall cause the necessary Orders to be dispatched immediately after the signing of this Convention.

* Art. III. After having duly considered the Demands and Pretensions of the two Crowns, and of their respective Subjects, for Reparation of the Damages sustained on each Side, and all Circumstances which relate to this important Affair; it is agreed, that his Catholic Majesty shall cause to be paid to his *Britannic Majesty*, the Sum of 95,000 *l.* Sterling, for a Balance, which has been admitted as due to the Crown and the Subjects of *Great-Britain*, after Deduction made of the Demands of the Crown and Subjects of *Spain*; to the End that the above-mentioned Sum, together with the Amount of what has been acknowledged on the Part of *Great Britain* to be due to *Spain* on her Demands, may be employed by his *Britannic Majesty* for the Satisfaction, Discharge, and Payment of the Demands of his Subjects upon the Crown of *Spain*; it being understood nevertheless, That it shall not be pretended, that this reciprocal Discharge extends, or relates to the Accounts and Differences, which subsist, or are to be settled between the Crown of *Spain* and the Company of the * Assiento of Negroes, nor to any particular or private Contracts that may subsist between either of the two Crowns, or their Ministers, with the Subjects of the other, or between the Subjects and Subjects of each Nation respectively; with Exception, however, of all Pretensions of this Class mentioned

* By this is described what is commonly called the *South-Sea-Company*.

tioned in the Plan presented at *Seville*, by the Commissioners of *Great-Britain*, and included in the Account lately made out at *London*, of Damages sustained by the Subjects of the said Crown, and especially the three Particulars inserted in the said Plan, and making but one Article in the Account, amounting to 119,512 Piastras, 3 Reals and 3 Quarrils of Plate; and the Subjects on each Side shall be entitled, and shall have Liberty to have Recourse to the Law, or to take other proper Measures, for causing the aforesaid Engagements to be fulfilled, in the same Manner as if this Convention did not exist.

Ann. 12 Dec. 1739

1739-9

‘ Art. IV. The Value of the Ship called the *Woodball*, which was taken and carried to the Port of *Campechy* in the Year 1732, the *Loyal Charles*, the *Dispatch*, the *George*, and the *Prince William*, which were carried to the *Havanna* in the Year 1737, and the *St. James* to *Porto Rica* in the same Year, having been included in the Valuation that has been made of the Demands of the Subjects of *Great-Britain*, as also several others that were taken before; if it happens, that, in consequence of the Orders that have been dispatched by the Court of *Spain* for the Restitution of them, Part, or the Whole of them have been restored, the Sums so received shall be deducted from the 95,000 *l.* Sterling, which is to be paid by the Court of *Spain*, according to what is above stipulated: It being, however, understood, that the Payment of the 95,000 *l.* Sterling shall not be, for that Reason, in any Manner delayed; saving that what may have been previously received shall be restored.

‘ Art. V. The present Convention shall be approved and ratified by his *Britannic Majesty* and by his *Catholic Majesty*; and the Ratifications thereof shall be delivered and exchanged at *London* within the Space of six Weeks, or sooner, if it can be done, to be reckoned from the Day of the signing.

‘ In witness whereof, We the under-written Ministers Plenipotentiaries of his *Britannic Majesty* and of his *Catholic Majesty*, by Virtue of our Full Powers, have signed the present Convention, and caused the Seal of our Arms to be affixed thereto. Done at the *Pardo* the 14th Day of *January*, 1739.

B. Keene,
S. de la *Quadra*.”

First

Ann. 12. Geo. II.
1738-9.

First separate ARTICLE.

‘ Whereas it has been agreed by the first Article of the Convention, signed this Day, between the Ministers-Plenipotentiaries of *Great-Britain* and *Spain*, that there shall be named on the Part of their *Britannic* and Catholic Majesties respectively, immediately after the signing the above-said Convention, two Ministers-Plenipotentiaries, who shall meet at *Madrid*, within the Space of six Weeks, to be reckoned from the Day of the Exchange of the Ratifications; their said Majesties, to the End that no Time may be lost in removing, by a solemn Treaty, which is to be concluded for that Purpose, all Cause of Complaint for the future, and in establishing thereby a perfect good Understanding, and a lasting Friendship between the two Crowns, have named, and do by these Presents name, *viz.* his *Britannic* Majesty, *Benjamin Keene*, Esq; his said Majesty’s Minister-Plenipotentiary to his Catholic Majesty, and *Abrabam Castres*, Esq; his said *Britannick* Majesty’s Consul-General at the Court of his Catholic Majesty, his Plenipotentiaries for that Purpose; and his Catholic Majesty, *Don Joseph de la Quintana*, his Counsellor in the supreme Council of the *Indies*, and *Don Stephen-Joseph de Abaria*, Knight of the Order of *Calatrava*, Counsellor in the same Council, and Superintendant of the Chamber of Accounts, who shall be immediately instructed to begin the Conferences: And whereas it has been agreed by the third Article of the Convention signed this Day, that the Sum of 95,000 *l.* Sterling, is due, on the Part of *Spain*, as a Balance to the Crown and Subjects of *Great-Britain*, after Deduction made of the Demands of the Crown and Subjects of *Spain*; his Catholic Majesty shall cause to be paid at *London*, within the Term of four Months, to be reckoned from the Day of the Exchange of the Ratifications, or sooner if it be possible, in Money, the above-mentioned 95,000 *l.* Sterling, to such Persons as shall be authorized, on the Part of his *Britannic* Majesty, to receive it.

Second separate ARTICLE.

‘ Whereas the underwritten Ministers Plenipotentiaries of their *Britannic* and *Catholic* Majesties have this Day signed, by Virtue of full Powers from the Kings their Masters for that Purpose, a Convention for settling and adjusting all the Demands, on each Side, of the Crowns of *Great Britain* and *Spain*, on Account of Seizures made, Ships taken, &c. and

and for the Payment of a Balance that is thereby due to the *Ann. 12 Geo. II.*
 Crown of *Great Britain*; it is declared, that the Ship call- *1738-9.*
 ed the *Sucess*, which was taken on the 14th Day of *April*
 1738, as she was coming out from the Island of *Antigua*, by
 a *Spanish* Guarda Costa, and carried to *Porto Rico*, is not
 comprehended in the aforesaid Convention; and his Catho-
 lic Majesty promises, that the said Ship and its Cargo shall
 be forthwith restored, or the just Value thereof to the law-
 ful Owners; provided that, previous to the Restitution of
 the said Ship the *Sucess*, the Person or Persons interested
 therein do give Security at *London*, to the Satisfaction of *Don*
Thomas Geraldino, his Catholick Majesty's Minister Plenipo-
 tentiary, to abide by what shall be decided thereupon by
 the Ministers Plenipotentiaries of their said Majesties, that
 have been named for finally settling, according to the Trea-
 ties, the Disputes which remain to be adjusted between the
 two Crowns; and his Catholic Majesty agrees, as far as
 shall depend upon him, that the above-mentioned Ship the
Sucess, shall be referred to the Examination and Decision of
 the Plenipotentiaries; his *Britannic* Majesty promises like-
 wise to refer, as far as shall depend upon him, to the De-
 cision of the Plenipotentiaries, the Brigantine *Sancta Theresa*,
 seized in the Port of *Dublin*, in *Ireland*, in the Year 1735.
 And the said underwritten Ministers Plenipotentiaries de-
 clare by these Presents, that the 3d Article of the Con-
 vention signed this Day, does not extend, nor shall be constr-
 ued to extend to any Ships or Effects that may have been
 taken or seized since the 10th Day of *December* 1737, or
 may be hereafter taken or seized; in which Cases, Justice
 shall be done according to the Treaties, as if the aforesaid
 Convention had not been made; it being however under-
 stood, that this relates only to the Indemnification and Sa-
 tisfaction to be made for the Effects seized, or Prizes taken,
 but that the Decision of the Cases, which may happen, in
 order to remove all Pretext for Dispute, is to be referred
 to the Plenipotentiaries, to be determined by them accord-
 ing to the Treaties.

Those separate Articles shall have the same Force as if
 inserted Word for Word in the Convention signed this
 Day: And shall be ratified in the same Manner.

In Witness whereof, We the underwritten Ministers Ple-
 nipotentiaries of his *Britannick* Majesty, and of his Catho-
 lick Majesty, by Virtue of our full Powers, have signed the
 present separate Articles, and have caused the Seals of our
 Arms to be affixed thereto. At the *Parl*, Jan. 14, 1739.

B. Keene, *Sebastian de la Quadra.*

The

Ann. 73 Geo. II. The Convention and separate Article, were ratify'd under the Hand of his *Britannic Majesty*, Jan. 24; and of his Catholic Majesty *January 15. N. S. 1739*, and were concluded pursuant to full Powers dated at *St. James's, Nov. 9. 1738*, at the *Pardo, January 10, 1739*.

Copy of the Declaration made on the Part of the King of Spain, before he ratify'd the Convention.

' *Don Sebastian de la Quadra*, Counsellor and first Secretary of State of his Catholic Majesty, and his first Plenipotentiary for the Convention which is treating with the King of England, by Order of his Sovereign, and in Consequence of his repeated Memorials and Conferences that have pass'd with *Don Benjamin Keene*, Minister Plenipotentiary of his *Britannic Majesty*, and having agreed therein with reciprocal Accord, that the present Declaration shall be made as the essential and precise Means to overcome the so much debated Disputes, and, in order that the said Convention may be signed, does declare, in due Form, that his Catholic Majesty reserves to himself, in its full Force, the Right of being able to suspend the Assiento of Negroes, and for dispatching the necessary Orders for the Execution thereof, in case the Company does not subject herself to pay, within a short Term, the 68,000*l.* Sterling, which she has confess'd is owing on the Duty of Negroes, according to the Regulation of 52*d.* per Dollar, or on the Profits of the Ship *Caroline*; and likewise declare, that under the Validity and Force of this Protest, the signing of the said Convention may be proceeded on, and in no other Manner. Wherefore, upon this firm Supposition, and that it may not be eluded on any Motive or Pretext whatsoever, his Catholic Majesty has been induced thereto.

Pardo, 10th of Jan. 1739.

Don Sebastian de la Quadra.

February 9. The Lord *Delaware* stood up in the House of Lords and spoke as follows:

Lord Delaware's
Speech against a
Satire, intitled
MANNERS.

' My Lords, it is with an equal mixture of Concern and Indignation, that I observe the best and the most valuable Privileges of the Subjects prostituted to the most infamous Purposes.

Purposes. The Hand of the Legislature has been, as yet, tender of reforming this Abuse, lest, in endeavouring to restrain Licentiousness, Liberty might be affected. But, my Lords, the Reason of my rising up is, perhaps, one of the most flagrant instances of Abuse and Virulence that this Age has seen. It is true that I believe no Man in the Nation will say, that the least Ground has been afforded by the noble Lords; whose Characters are attack'd in the infamous Libel I have in my Hand, for treating them in such a manner as the Libeller has done; but, my Lords, if we should suffer such flagrant Insults upon our Order and Dignity to pass uncensur'd, it will be thought without Doors; either that we deserve them, or that we dare not punish them. My Lords, it is necessary to make some Examples of our Justice sometimes; your Lordships have a Right to vindicate your own Dignity, and, as you see Cause, to punish those who offend against any of the Members of this House. We have many Precedents for this, my Lords, and our Exercise of this Power has always had a good Effect.

I have in my Hand, my Lords, a Paper, entitled, *Manners*; a Satire: By Mr. *Whitehead*: Printed for R. *Doddsley*. at *Tully's Head*, *Pall Mall*: Which I conceive to be highly reflecting upon the Characters of several noble Lords in this House; But as our Forms generally direct us to hear what the Parties offending have to say for themselves, I shall only, at present, make a Motion, That the Author and Printer of this Paper be ordered to attend at your Lordships Bar on *Monday* next.

Accordingly on *Monday*, *February* 12, the Person whose Business it was to summon the above Printer and Author having inform'd the House that they both waited at the Door, a Motion was made, that the Paper should be read by the Clerk, which was accordingly done; and the Question being then put, That the said Paper was a false, scandalous, and malicious Libel, and contained divers Matters highly reflecting upon some of the Members of that House, the same was unanimously agreed to.

The Author was then ordered to attend; but the Door-keeper informing the House that he was not there, the above Summoner, or Messenger, was called in, and examin'd by the House, if he had duly executed the Order of the House? He answer'd, that he had been at the Author's House, and that not finding him at Home, he left the Order for his Attendance with his Maid, who had promised to deliver it. It was then moved, That the said Au-

Ann. 12 Geo. II.
1738-9.

The said Satire
voted a Libel.

Motion for taking
the Author into
Custody.

Act. 12 Geo. II.
1738-9.

thor not attending, he should be taken into the Custody of the Usher of the Black Rod.

Debate thereon.

Upon which the Earl of *Abingdon* spoke as follows :

Earl of *Abingdon*.

‘ My Lords, there is no Lord in this House more averse to encouraging any Tendency towards a Spirit of Licentiousness, especially when it may be thought to affect any of your Lordships, or more ready to give his Vote for punishing the Authors, than myself : But, my Lords, a Doubt arises within me just now, from what your Lordships Officer told the House. He said, my Lords, that he did not meet with the Author, and that he had left the Order with his Maid. My Lords, my Doubt is, whether we can, consistently with Justice, and the Forms of the House, proceed to order this Man into Custody, if the Order for his Attendance was not personally serv’d upon him.’

The Lord *Delaware*.

Lord *Delaware*.

‘ My Lords, it is great Matter of Surprise to me, that the noble Lord should entertain the least Doubt upon this Head. If once we should admit it to be necessary that every Person, who is ordered to attend here, should be personally summon’d, I believe very few of your Lordships Orders would be regarded. It would be easy, my Lords, for one who is conscious that he has done amiss, to keep out of the way, and to elude the Diligence of your Officer. And what passes in this House is not so secretly transacted, but that an Offender may soon know the proper time for absconding. Besides, my Lords, there is nothing more ordinary than to order Offenders into the Custody of the Usher of the Black Rod, tho’ they have not been personally serv’d with your Lordships Order.’

The Motion agreed to.

Upon this the Motion was unanimously agreed to.

The Printer was then call’d to the Bar of the House, and upon the several Questions being put to him, he inform’d the House, that the Author, whose Name was prefix’d to the Poem, sent for him to his House, and that he agreed with him to print the said Poem ; that he did not look into the Contents of it, but that imagining there might be something in it, as he saw it was a Satire by its Title-page, that might be laid hold of in Law, he insisted that the Author should affix his Name to it, and that he then printed it.

Ann. 12 Geo. II.
1738-9.

A Motion to
take the Printer
into Custody.
Lord Carteret.

A Motion being then made, That the Printer should be taken into the Custody of the Usher of the Black Rod, the Lord Carteret rose up and spoke as follows.

‘ My Lords, I don’t think myself at liberty to vindicate either the Printer’s or the Author’s Innocence in this Affair, especially as your Lordships have already pass’d your Censure upon the Paper that gave rise to this Motion. But, my Lords, it may not be always expedient to go to the Rigour of Justice, especially in a Case that may by some be thought to affect the Liberty of the Press. Therefore I think your Lordships ought to temper your Severity to this poor Man, who is so unfortunate, as I believe, undesignedly to fall under your Displeasure. I should be glad to know of any of your Lordships, if the Author had appeared, whether your Lordships would have proceeded to these Extremities against the Printer. My Lords, I believe the House would have thought it sufficient, if our Censure had been inflicted upon one of the Persons concerned; I dare say your Lordships would have extended your Indulgence a little to this Man, who very probably was drawn in by the Arts of the Author to print this Libel. I beg your Lordships would consider this. It is hard that this Man should suffer for another Man’s being contumacious; he has, my Lords, shewn all due Respect to your Lordships Order, and it would sound harsh if your Lordships should inflict the same Censure upon him that you would have inflicted upon the Author, had he appear’d. I am far, my Lords, from excusing either of them, but I hope the Consideration of what this Man’s Fate would have been, had the Author appear’d, will induce your Lordships to mitigate it now. I shall make no Motion, my Lords, but I hope what I have thrown out may have some Influence with your Lordships.’

The Earl of Abingdon spoke next to the following Purpose:

‘ My Lords, I believe there are very few, or no Instances, wherein your Lordships have proceeded with Severity against a Printer when the Author was discover’d; and I think it would be hard, if your Lordships were to make such a Precedent at this Time. In inferior Courts, my Lords, it very seldom happens that Printers suffer when the Authors are known; and I hope your Lordships will, on this Occa-

Earl of Abing-
don.

1738-9

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sion,

Ann. 12 Geo. II.
1738-9.

tion, proceed with that Lenity which distinguishes this House more than all its other Privileges.

Lord Lovel.

Lord Lovel.

‘ My Lords, I should be very willing to shew all Indulgence to one in this Person’s Circumstances, if I did not think his Offence of such a Nature as to admit of no Mitigation. Libels of this kind are now grown so common, and appear with so much Impunity attending the Authors, that they require an immediate Check from the Legislature. The noble Lords who spoke last, seem’d to think, that as this Man was only the Tool of the Author, therefore we ought to pardon him. My Lords, as we have found the Paper in itself to be a Libel, the Printer, in the Eye of the Law, and in Equity too, is as guilty as the Author. Were it not for the Printers, these infamous Papers would die before they were made public; it is the printing and publishing them that does all the Mischief. The Libel now in my Hand is of a peculiar Malignancy. It falls upon Characters that are above Envy itself to asperse, it throws out Insinuations that none but the most corrupted Heart could suggest; and, my Lords, if we neglected to punish every one whom we shall find to have had a hand in it, we do an Indignity to ourselves. My Lords, the Public, in Cases of of this Nature, are generally favourable to the Offender; but this Libel is of so virulent a Nature, that, I dare say, there is not a Gentleman in the Kingdom who does not detest it. If the Authors and Publishers, therefore, of such Scandal, are not punish’d, the Public itself will blame us, and, indeed, I do not see what Character or Reputation is safe.’

The Lord Chancellor.

Lord Chancellor.

‘ My Lords, the Liberty of the Press is what I think ought to be sacred to every *Englishman*, and, I dare answer for it, will ever be so to your Lordships. But, my Lords, tho’ the Liberty of the Press is in every Body’s Mouth, yet, I am afraid, there is nothing less understood than the Nature of that Liberty. My Lords, I have often desir’d an Opportunity of delivering to your Lordships my Sentiments, with regard to the Liberty of the Press; and as that Expression has been mentioned in this Debate, I think I cannot have a fairer Opportunity of doing it than the present: But I hope your Lordships, beforehand, will acquit me of any Affectation to appear singular upon this Occasion. I do,

do assure you, my Lords, I shall speak my Sentiments, and what occurs to me from the most mature Reflection I am able to make upon the Nature of our Constitution and Government.

Ann. 12 Geo. II.

1738-9.

The Liberty of the Press, my Lords, is by most People, I know, taken for a Liberty to publish every Indecency of any kind, against the most respectable Persons, and the highest Characters; and so strongly does this Notion prevail, that a Libeller is no sooner prosecuted, than a Cry is immediately set up, that the Liberty of the Press is endanger'd. But, my Lords, give me leave to say, that if the Liberty of the Press consists in Defamation, it were much better we were without any such Liberty. My Notion, my Lords, is that the Words, *The Liberty of the Press*, are improperly us'd, to express a Right, which is peculiar to the Press, of publishing to the World any defamatory Matter to the Prejudice of Superior, Inferior, or Equal. My Lords, the Laws and Constitution of *England* know of no such Liberty; for that would be a Liberty destructive of all Laws, and all Constitutions. How these Words came to prevail, was, my Lords, in my Opinion, in this manner: Before the Art of Printing was known in *Europe*, Learning was confined to a very few. At that time, the Transcribers and Copiers of Books were a very considerable Body of Men, and were under particular Regulations by Law. When Printing was discover'd, these Restrictions fell of course, and then every Man was at liberty to communicate, at an easy Expence, his Labours and Thoughts upon any Subject to the whole World. This, my Lords, was found so very convenient, that thence arose the Words, *The Liberty of the Press*. That this is the natural Original of these Words, my Lords, will appear from considering the Nature of our Laws, with regard to defamatory Libels before Printing was discover'd, compar'd with what it is now. My Lords, before the Discovery of Printing, very strong Statutes were made against Defamation, which very Statutes are still in Force; and no Man, my Lords, will shew me any one Statute upon this Head, that was in Force before the Discovery of Printing, which has been since repeal'd. From this, my Lords, I think it evident, that by the Expression, *The Liberty of the Press*, can never be understood any Liberty which the Press acquir'd, and which was unknown before the Discovery of Printing. This, I hope, your Lordships will find a fair and just Way of Reasoning; and, indeed, the only Way on which we can reason on this Subject. If any Body, my Lords, is of Opinion, that Authors acquir'd any new Privileges or Liberties when Printing was discover'd, he ought to prove, my Lords, either

Ann. 12 Geo. II.

1738-9.

either that the old Statutes on that Subject were repeal'd, or that new ones were made in its favour; which, I will venture to say, no Man can do. It is true, my Lords, that, in some Reigns, very great Restraints have been laid upon the Press, and very great Severities have been inflicted on Authors and Printers, for publishing that which would now pass current. But this never proves that the Laws relating to Defamation were bad Laws; it only proves that they were abused by Power. I am very sensible, my Lords, of how much Use the Press was at the Time of the Revolution; but the Authors who wrote at that Time on the Side of Liberty, advanced nothing that was not agreeable to the Constitution; they were warranted by Law for what they wrote, and they had the Sense of the Nation on their Side. Besides, my Lords, there is a great Difference betwixt an Author's writing on a speculative Subject, on which he thinks he has something to communicate that may be of Service to the World, and an Author's falling foul on all Mankind because they are not of his way of Thinking. The Authors on the Side of the Revolution, my Lords, communicated their Sentiments with the greatest Deference to the Persons and Characters of their Superiors, unmix'd with personal Calumnies, or virulent Reflexions. Therefore, my Lords, it is a groundless Cry against the Government, when a Libeller is punish'd, to compare the Conduct of this Government to that before the Revolution, unless those Gentlemen can prove, to the Satisfaction of a Jury, that they write with as much Caution, and with as much Decency, as the Writers who in the Reigns of King *Charles II.* and King *James II.* wrote on the Principles of Liberty.

Having said thus much, my Lords, I cannot help taking Notice of another very common Mistake, with regard to the Freedom which some Gentlemen think themselves entitled to, in censuring the Conduct of their Superiors. My Lords, this is a Freedom unknown to our Constitution, and subversive of our known Statutes, because a great part of our Laws are intended for the Relief of any Person who is injur'd by another. Any Person, my Lords, who is injured by another, were this last the greatest Subject in the Kingdom, has the Courts of Justice open for his Relief, and he has a Jury who will do him Justice according to the Nature of his Case, and then the Law is satisfied. No Man, my Lords, is at liberty, by our Laws, to carry his Resentment farther, because, if he carries it farther, he carries it beyond Law. From this, my Lords, it is plain, that whoever attempts to attack any Man's Character, by writing or publishing defamatory Libels, is guilty of a Trespass, and can plead no Mitigation of his Crime, either from

from the Nature of our Constitution, or the Tenor of our Laws. My Lords, I am sensible this Doctrine sounds odd, at a time of day when the People, under the Notion of Liberty, are quite intoxicated with a Spirit of Licentiousness. But, I know, I speak in an Assembly where nothing is approv'd or condemn'd before it is thoroughly weigh'd; and the longer, my Lords, your Lordships weigh what I have advanc'd, I am convinc'd, your Lordships will think it more reasonable. The Libel we are now upon is of the more virulent Quality, in that it was impossible any of the Subjects of the Libel could give any just Ground of Provocation to the Author. My Lords, I do not believe any of the noble Lords, attack'd by this impudent Libeller, so much as know him by Sight, far less have had any manner of Opportunity to injure him. This, my Lords, is an Aggravation of his Offence; such a Behaviour can proceed from nothing but a Wantonness of Malice, and therefore, I think, deserves all the Severity of your Lordships Censure.

Ann. 12 Geo. II.
1738-9.

The Lord Talbot.

'My Lords, the Liberty of the Press is what, I hope, never to hear distinguish'd away. I believe every Lord here is sensible that it is in a great measure owing to the Liberty of the Press, that this Day we enjoy any Liberty at all. I do not speak in Defence of the Author or Printer of this Paper, for, if it is such a Libel as some Lords have represented it, I think no honest Man will defend them. But, my Lords, the noble Lord who spoke last, has himself furnish'd me with what, I think, is a very strong Argument, why we ought not to proceed against them in this manner. The noble Lord said, That when the meanest Subject was aggriev'd by the greatest Man in the Kingdom, the Courts of Justice are open for his Relief from them. My Lords, if it is so, in Heaven's Name, let those aggriev'd by this Libel have their recourse to the inferior Courts of Justice, and don't let such a Charge lie against us, that we were Judges, Juries, and Parties in the same Affair.'

The Question being put, it was carried in the Affirmative, on a Division of 33 against 72.

The Question carried in the Affirmative.

February 22. Being the Day appointed by the Lords for taking the Convention into their Consideration, before their Lordships enter'd upon that Business, the Duke of Newcastle laid before them, a Copy of the King of Spain's Declaration relating

Motion for examining the South-Sea Directors, and Debate thereon.

Ann. 12. Geo. II. relating to the *South-Sea* Company, before-mentioned ;
 1738-39. which Declaration being read in the House, the Lord *Bathurst* stood up and spoke as follows :

Lord Bathurst.

‘ My Lords, It is with the greatest Concern and Reluctancy imaginable, that I rise up to speak to your Lordships on this Occasion ; at the same time I can’t help congratulating the noble Lord who sits by me, on the seasonable Hint he threw out the Day when the Convention was laid before this House. Those Hints, my Lords, have given us, have given the whole Kingdom, a very great Light: We now see upon what Terms *Spain* abated so far of the Haughtiness with which she has always treated this Nation, as to conclude any Negotiation. Before I heard this Declaration read, I had considered the Convention with all the Attention I am capable of bestowing ; and, my Lords, even then I could not find any one Stipulation in it, I could not see one Article that is not, in my poor Judgment, both Disadvantageous and Dishonourable to this Nation. But, my Lords, when I consider this Convention as clogged with this Protest from *Spain* ; when I consider it as attended with the highest Marks of Insolence and Indignity to this Kingdom on the Part of that Power ; I know not, my Lords, in what Light to look upon it. I know not what Words I shall make use of, or what Sentiments to express. Shall we call this Convention, my Lords, a Treaty ? No, a Treaty is an Act in which the Stipulations are mutual. This Convention is an Act wherein every Thing is granted by the one Side, and nothing stipulated on the other : But, my Lords, I will not anticipate the Debate ; it may be, I have said too much already ; perhaps, they who are more in the Secret of Affairs, when the Convention comes to be under Consideration, may give me reason to alter my Opinion : I shall therefore confine what I have to say to a few Arguments, in order to support a Motion which I shall beg the Liberty to make to your Lordships.’

‘ The Affairs of a Public Company, and the Affairs of a whole Kingdom are, in my Opinion, to be considered as very distinct the one from the other. The Interests of all the Subjects in the Kingdom ought, indeed, to be very dear to the Crown, but more especially the Interests and Rights of Trading Companies. These Rights are derived from the Crown, and while the Crown supports them, it supports its own Rights ; when it gives them up, my Lords, it gives up its own Rights ; it gives up the Rights of the Nation. But there is a great Difference betwixt the particular Interests, and the general Rights of a Company. The parti-

particular Interests of a Company are in the Hands of private Men, appointed by that Company to take care of them; they ought to have no Relation to the Public Negotiations of this Nation, far less ought these last to have any Dependence upon them. This Protest, my Lords, makes the Convention, which ought to have been a solemn Treaty, no farther valid than as a private Negotiation betwixt the King of *Spain* and the *South-Sea* Company shall turn out. Let his Catholic Majesty's Demand be ever so unjust; let his Claim be ever so exorbitant, it must be satisfied, otherwise this Public Negotiation must, it seems, be invalid. But, my Lords, this Insolence of *Spain* does not at all surprize me; for I should be surpriz'd at nothing which that Court could do, unless I heard that they had done an Act of Equity and Justice: What surprizes me most, my Lords, is, that our Minister should so far forget his Character as to accept of this Protest or Declaration (call it what you will) and that he should, with *reciprocal accord*, agree, that the Declaration we have now heard, should be made the essential, precise Means of overcoming the Difficulties that obstructed the Conclusion of the Convention.

‘ Mr. *Keene* is, I know, Agent for the *South-Sea* Company, as well as Plenipotentiary from our Court. Nothing in the World, my Lords, ought to have been more distinct than these Characters. As Agent for the *South-Sea* Company, he was to solicit their Concerns at the Court of *Spain*: He was to take Care of their Interests; he was to transmit to his Constituents a proper State of every Thing that passed. As a Public Minister, my Lords, he was to take care that no Violation should be committed of any of the Treaties upon which the Rights of that Company are founded. The uniting of these two Characters in his Person was of great Use to him; he was sure not to be imposed upon by Misrepresentations; he was sure the Agent and the Minister would not run counter to one another; and that the one would always be supported by the other. But, my Lords, it should appear by this Declaration, that the Minister has so far forgot himself, as to consent to the making the Validity of this Declaration the Condition of the Validity of the Convention. Not only so, my Lords, but he has consented with the same *reciprocal Accord*, to own his Catholic Majesty's Right to suspend the *Affiento* Contract. Thus, my Lords, he has agreed, that the Public Transactions of this Nation shall depend upon the Execution of the Private Engagements of the *South-Sea* Company.

‘ My Lords, I shall say no more on this Subject; only I must observe to your Lordships, that either the Court of *Spain* must have been guilty of the greatest Insolence and In-

Ann. 12 Geo. II.
1738-9.

justice to this Nation, and the Minister of the highest Breach of Trust ; or the *South-Sea* Company must have been guilty of the greatest Injustice to the Crown of *Spain*. However that stands, my Lords, we are at present very much in the Dark, and we must remain so, till such time as we are regularly informed by what Means this Debt was contracted, and how Affairs stand betwixt the *South-Sea* Company and his Catholick Majesty. This, my Lords, I say, is the only Means of our coming to a Knowledge of this Affair ; the proper Information that we are to have, must be from the the *South-Sea* Company themselves ; we are not to trust to Ministers for our Information ; we are not to trust to those employed by Ministers. We are to have our Information from the first hand ; we shall be then less liable to be imposed on, and more able to give a Judgment in this Matter. In short, my Lords, I think it needless to trouble your Lordships with many Arguments in support of the Motion which I am to make : I am persuaded, the reasonableness of the Thing itself will speak for it ; therefore I humbly take the Liberty to move your Lordships, That a Day be appointed for examining the Directors of the *South-Sea* Company, touching the sum of 68,000 *l.* mentioned in the Declaration given to the *British* Minister, signed at the *Pardo*, *January* the 10th, which Sum is, by his Catholic Majesty, claimed as a Debt due to him by the said Company : And that the Directors of the *South-Sea* Company be ordered to attend this House for that Purpose,

Upon this the Lord *Hervey* rose up, and said as follows :

Lord *Hervey*.

‘ My Lords, I shall not differ much from the noble Lord who spoke last, with regard to the Treatment which the Subjects of this Nation have received from the *Spaniards* ; but I am surprized to find that his Lordship supposes their agreeing to treat with us on the Footing stipulated by the Convention, is an Aggravation of that Treatment. If, my Lords, the Provocations of this Nation has received from *Spain* were so very great ; if the Haughtiness with which she has all along behaved, was so very excessive as the noble Lord has been pleased to represent it, we cannot suppose that her Ministry, who certainly are sensible they are no Match for us by themselves, were without well-grounded Hopes of being assisted and supported by a Power more formidable than their own. If our Ministry therefore have taken such wise Precautions, as to shew them that we are not to be intimidated, by any Consideration whatsoever, from obtaining Satisfaction for our Losses, and ample Security against future En-
croach-

croachments : If, in Consequence of this, they have been brought to treat, I think, my Lords, it is one very great Point gained It shews at least, that they are cured of their Presumption, and that the Resolution of our Government has had such an Effect as to bring them to treat. I don't speak, my Lords, with regard to the Merits of the Convention itself, this is not a proper Time to enter into the Particulars of that Treaty, your Lordships have appointed a Day to take it into Consideration ; I only speak with Regard to the Effect of our late Measures.

Ann. 12 Geo. II.
1738-9.

' As to the Behaviour of Mr. Keene, which the noble Lord has so much insisted on, I think this is not a proper Time to canvass it. If he has so shamefully betray'd his Trust, if he has acted so inconsistently with his Character, as the noble Lord hath accused him of having done, the Nation and Parliament will undoubtedly bring him to Justice ; and I am sure, my Lords, I shall be the first to agree to any Censure which your Lordships shall think fit to inflict on him. But, my Lords, it is my Opinion, though I own a very unpopular one at present, that we ought always to presume the best of those to whose Hands his Majesty has thought fit to entrust the Concerns of the Nation, till we are well informed that they have deserved to be blamed.

' I can agree with the noble Lord, that the Character of Agent from the *South-Sea* Company, and that of Plenipotentiary from the Crown of *Great Britain*, are very different from one another, and that they ought by no Means to be confounded one with the other ; but, my Lords, till I am better informed, I do not think my self at Liberty to think that that Minister deserves all the hard Things to be said of him, which the noble Lord has thrown out. It is very difficult, my Lords, for this House to judge of the Reasons which may have determined Mr. Keene, as a public Minister, to accept this Declaration ; and it is still harder to judge of his Motives as Agent for the *South-Sea* Company. The King of *Spain*, and that Company, my Lords, must have a great many Dealings with one another ; it is no wonder if their Affairs are very often entangled together ; and therefore your Lordships, give me leave to say it, are not the proper Judges of the Reasons that may sometimes induce their Agents to use Precautions, or to make Concessions, that would seem very odd if they pass'd betwixt Man and Man, or one Body of Men and another. 'Tis in the Power of the Court of *Spain* to put that Company under very great Disadvantages ; and they have done it, my Lords, as often as any Rupture, or even the Appearance of a Rupture, has happened betwixt their Court and ours. And, after this, are we to be fur-

Ann. 12 Geo. II.
1738-9.

priz'd, if these Gentlemen take all the Precautions in the World to keep fair with the Court of *Spain*? Especially if we consider, that they have no Reason to think we ought to plunge our selves rashly into a War on every slight Misunderstanding betwixt it and them. My Lords, if we should, there would not be wanting other Powers of *Europe*, who would be glad to carry on that Trade on the Terms granted to the Company. I don't know, my Lords, but that an Offer of this kind may be one reason that induces the *Spanish* Court to treat that Company with so much Severity. Besides, my Lords, we are not certain that the Demands of his Catholic Majesty are absolutely unjust. The Protest just now read affirms, that the 68,000*l.* therein demanded is a Debt confessed by the Company to be due to his Catholic Majesty. My Lords, if it is so, it must be paid, and there is no wonder if the Court of *Spain* insist upon its being paid in the strongest Terms.

Having said thus much, my Lords, in general, with regard to the Nature of the Company's Trade, I shall beg leave to say a Word or two, in answer to what fell from the noble Lord who spoke last, with regard to the Part which Mr. *Keene* has acted in this Affair. The noble Lord himself very justly observed, that, as Agent for the *South-Sea* Company, he was to solicit their Affairs at the *Spanish* Court, to take Care of their Interests, and to transmit to his Principals whatever concern'd them, especially if it was in a Matter of Importance; that, as a Public Minister of this Crown, he was to oppose any Violation of the Rights on which the Trade of that Company, as Subjects of *Great Britain*, is founded. My Lords, this Distinction being laid down, give me Leave to observe, that there is another Distinction extremely worthy of your Lordships notice, that is, the Distinction of the Characters of the *Spanish* Ministers. The King of *Spain*, my Lords, is in this Case to be looked upon, not only as a Sovereign Prince, but as a considerable Merchant. For your Lordships know, that by Treaty he is entitled to a large Share, I think one Fourth, of the Profits arising from the Company's Trade. Now, my Lords, this being the Case, it follows, that his Catholic Majesty's Ministers must likewise be considered, not only as the Public Ministers of his Crown, but as Agents for his mercantile Interest. On this account it is, my Lords, that, if these two Characters have been confounded together, they have been so only on the Part of the *Spanish* Ministry, who ridiculously insist on their Master's having it in his Power, as a Sovereign, to suspend the *Assiento* Contract, in case a Debt is not paid which is due to him as a Merchant. Mr. *Keene*, my Lords, has done no
more

more than to accept this Declaration, which, as Agent for the Company, he was obliged to do, it relating immediately to their Concerns. If he had signed it, my Lords, he might have justly been blamed; but as he has not signed it, it can be looked upon as no Act of his, and consequently he is not answerable for it.

Ann. 12 Geo. II.
1738-9.

As to the Motion which the noble Lord has made, I think it would be extremely improper in us to intermeddle so far in the private Concerns betwixt the King of *Spain* and the *South-Sea* Company. If the latter is wrong'd, there is no doubt they will, as they have done before, apply to the Crown for Relief; and if the Crown shall find the Grounds of their Complaint just, they have all the Reason in the World to think, that proper Care will be taken of their Interest. My Lords, it would be of very dangerous Consequence, I think it would set a very bad Precedent for us to oblige the Directors of a trading Company to produce their Account-Books at the Bar of this House. We might thereby occasion them to discover Secrets, which may affect both them and the Nation: For, my Lords, there is no doubt that every trading Body of Men have Secrets, which may be of a very honest Nature, and yet it may be not only improper, but unjust to divulge them to the World. In short, my Lords, I think that we ought to consider this Declaration as a Thing entirely independent of the Convention; but if, in the Course of our Debate upon the Convention, we shall find that there is an absolute Necessity for our examining the Directors of the *South-Sea* Company, it will be then time enough to agree to this Motion. But, my Lords, I think it would be highly improper at this critical Juncture to oblige that Company to expose their Books, or to bring them into any Necessity of appearing as Parties against the King of *Spain*. Therefore I am against the Motion.'

The Earl of *Isa*.

'My Lords, I should not have troubled your Lordships at this Time, especially after what has been observed by the noble Lord who spoke last, had I not some particular Reasons for thinking this Motion at present very improper.

Earl of *Isa*.

'The Debt which the King of *Spain*'s Minister claims by this Declaration is, my Lords, a Debt that has, in some Measure, been already allow'd of by the *South-Sea* Company; for which Reason, my Lords, it ought to be left to the *Spanish* Minister here, and the Directors of that Company, to settle it the best Way they can. If your Lordships should interpose in the Matter, the *Spaniards* might very justly

Ann. 12 Geo. II.
1738-9.

justly think that the Parliament of *England* design'd to make itself a Party in an Affair that concerns private Property, and to support that Company in an Act of Injustice. I don't by this, my Lords, mean, as if we ought not to take care of the Interests of the Subjects of this Nation, if they are attack'd by the Court of *Spain*; I only mean, that we ought not to take Cognizance of an Affair, that properly cannot lie before us till we are apply'd to by the Company for Relief.

' I am the more strengthened in this Opinion, by what I have been inform'd of, within a few Hours, that the *South-Sea* Company has appointed a Day for considering the Merits of that Debt, and also for determining whether they will pay it or not; and that their paying it depends on the *Spanish* Court's fulfilling certain Conditions insisted on by them. Now, my Lords, if the Company shall think fit to pay the Debt, or if the Court of *Spain* shall think fit to grant them their Terms, I can by no means see of what Consequence this Declaration can be to the Convention. Nay, my Lords, I think in whatever light we view it, it can never affect a Treaty, that has been concluded and ratified. I cannot indeed pretend to account for the Conduct of the *Spanish* Minister in transmitting a Paper of this kind to our Court; but I am sure it lies entirely out of our Road to take any notice of a Paper, that is sign'd by one Minister only, and that too upon an affair that affects only one Set of Men. We ought at least, my Lords, to wait the Issue of the Company's Deliberations on this Head: If they allow the Debt to be just, we save our selves a great deal of Trouble and Time too; if they don't allow it to be just, and if the *Spanish* Court shall insist on executing what is specified in this Declaration, the Affair will no doubt come before us in a proper Manner, and we shall then have a just Occasion for expressing our zeal for the Rights of the Nation. But in the mean Time, my Lords, I think we ought to take no manner of notice of this Declaration, because it is the Act of a single Minister, and consequently cannot at all affect a Treaty which has been fully ratify'd by both the contracting Powers.'

The Duke of *Argyle*.

Duke of *Argyle*.

' My Lords, since I have had the Honour to sit in this House, I don't think that I ever heard a Motion made, that was less liable to objections than the present. After a long Tract of Negotiations, a very unusual Forbearance, we have got a Preliminary Treaty from the Court of *Spain*, but

clogg'd with a Proviso absolutely requiring a Condition to be fulfilled on our Part. My Lords, I readily agree with the noble Lords, who have spoke against the Motion, that the Affairs of Trade, which may occasion Differences betwixt the *South-Sea* Company and his Catholic Majesty, are not properly cognizable by us; but when that Court assumes to itself a Right to suspend solemn Treaties subsisting with our Court, if their Concerns in Trade are not adjusted to their own liking, I think it is high time for us to interpose. The *Affiento* Contract, my Lords, and the Liberty which the *South-Sea* Company has of sending an Annual Ship to the *Spanish Indies*, are two of the principal Advantages that this Nation reap'd from a very long and expensive War. And, my Lords, if the *Spanish* Court, upon every little difference with this Company, shall assume to itself a Right to deprive us of these Advantages, which we enjoy by so many solemn Treaties, I think, if any Affair ever was of Public, of National Concern, this is so.

The Declaration we have now heard read, carries with it all the Characters of a public Act of that Crown. It is given in and sign'd by his Catholic Majesty's first Secretary of State, and first Plenipotentiary for the Convention; he tells you therein, that he gives it in consequence of repeated Memorials and Declarations that have pass'd betwixt him and Mr. Keene, his Majesty's Plenipotentiary; and that it is agreed upon with *reciprocal Accord*. My Lords, I cannot see what can be stronger than these Expressions, to make it just as Important and as Authentic as the Convention itself. But, say the noble Lords, who oppos'd the Motion, Mr. Keene did not sign it, and by accepting it, and transmitting it to this Court and to the *South-Sea* Company, he did no more than as Agent for that Company he was oblig'd to do. My Lords, I am of a very different Opinion. As Agent for that Company, he had a Power of making what Concessions he had a Mind, at least so far as his Commission reach'd, on the part of the Company; and if the Company empower'd him so to do, he might engage for the Payment of the Sum mention'd in the Declaration; but he was not to agree to the giving up National Engagements, and solemn Treaties.

If, my Lords, as the noble Lord, who spoke last, insist'd, this Affair were of a private Nature, and concern'd only one Set of Men amongst us, I should be very far from taking up your Lordships Time in speaking for the Motion; but, my Lords, it appears to me to be an Affair that concerns the Honour of the Crown, and the Interest not only of the *South-Sea* Company, but of all the Kingdom: It in

Ann. 12 Oct. 17.

1738-9.

Ann. 12 Geo. II.

1738-9.



a more special Manner concerns the Affair which we are to have under our Deliberation in a very few Days ; I mean the Convention ; for your Lordships see that the *Spanish* Minister, by this Declaration, allows no strength, no Validity to that Treaty, any farther than the Terms of his Demand are comply'd with. But, my Lords, how is it possible for us to know how reasonable these Demands are, unless we hear what the Party concern'd has to say ? Shall we give our Approbation to a Treaty, wherein one of the contracting Powers previously tells us, that the Validity of the Treaty does not depend either upon our approving or his Majesty's ratifying it, but upon an Event that, properly speaking, has no regard to the Treaty itself ? So that, my Lords, it seems, the *Spaniards* are of Opinion, that we are either to force the *South-Sea* Company to comply with the Terms of this Declaration, or we are to look upon all that has pass'd betwixt our Ministers and theirs, as a mere Farce. This, Sir, is plainly the Language of the Declaration, and I might challenge any Man alive to make any other Meaning out of it.

'The noble Lord, who spoke last, said, that we ought to know the result of the *South-Sea* Company's Resolution before we agree to the present Motion. My Lords, I cannot at all see the Expediency of that. I don't think that our Deliberations ought to depend upon the Resolutions of any Company. I shall suppose, my Lords, what may very possibly happen ; we have already appointed a Day to take the Convention under our Consideration ; we find it to be a proper Measure, and we return his Majesty an Address of Thanks upon it. The *South-Sea* company in the mean Time meet and consider the Demand of the *Spanish* Court ; they find that it is either unjust in itself, or that the Conditions upon which they own'd the Debt to be just, and promis'd Payment of it, have not been fulfill'd on his Catholick Majesty's part ; therefore they refuse to pay it. What follows upon this ? The Court of *Spain* tells us, that the Convention is invalid, since the Condition upon which they agreed to it is unfill'd. In this Event, my Lords, all we have been doing, all our Debates upon this Measure, must go for nothing. Therefore, my Lords, it would be certainly the Wifest, as well as the most expeditious Course, for us to examine the Directors of the Company before-hand, and be inform'd by them of the nature of this Claim, and know if they will pay it or not. If they are satisfy'd of its justice, and if they are willing to pay it, we can then regularly proceed upon the Merits of the Convention ; but if they refuse it, and are determin'd not to pay it, where is the necessity

of

of our putting ourselves to a vast deal of needless Trouble, Ann. 12 Geo. II.
1738-9.
in coming to Resolutions that can be of no Effect?

My Lords, I cannot say I am unquestionably warranted in what I shall advance; but, if my Information is right, there never was any Claim more unjust than this of the *Spanish* Court. I have heard, my Lords, they are so far from being indebted to the Crown of *Spain*, that that Crown is indebted to them, for near six times the Sum pretended, by this Declaration, to be owing to it. I have heard, my Lords, that this Debt on the Duty of the Negroes is one of the most unjust, arbitrary Claims that ever was; that the Valuation of the Dollar at 52s. never was settled till several Years after the *Affiento* Contract was made, and that his Catholic Majesty demands, that all the Deficiency, that happens by their making their former Payments in the Dollars of the Valuation they stood at when the *Affiento* Contract was made, should now be paid in to his Catholic Majesty, in the same manner as if the Value of the Dollar had been the same then as it is now. My Lords, if this is truth, I think there never was any Demand more exorbitant; I think this Declaration is a kind of a Defeazance upon the whole Transaction, in case such Terms are not comply'd with, as in themselves are highly Unreasonable, and which the *Spaniards* themselves know never will be granted.

If this, my Lords is the Case, I think it is very extraordinary, that Mr. *Kerne* should make any such concession, as is imply'd in this Declaration at the Court of *Spain*. If he d'd it in consequence of his Instructions from the *South-Sea* Company, I think that Company has done one of the most extraordinary Things that ever was heard of; and if he had no such Instructions, I think he has acted in a very unheard-of Manner. But, my Lords, be that how it will, he is certainly to blame in admitting the Execution of a public Treaty to depend on that of a private Transaction. There is, my Lords, another very unaccountable Circumstance in this Affair, I mean, that this Declaration is made in due Form, before the Convention is either sign'd or ratify'd. So that if the *South-Sea* Company should refuse to pay the 68,000*l*. I dare venture to lay all that I am worth in the World, that the *Spanish* Court will insist upon a Nullity of all that has been done, and proceed in the same Manner as if nothing had been done. They will tell us, that this Declaration is of the same Force with any Article of the Convention; that they gave us fair Warning of it before the Convention was sign'd, and that, if we had not been pleas'd with the Terms, we were under no Obligation to

Ann. 12 Geo. II.
1738-9.

sign the Convention, since it was not their fault if we were not sufficiently appriz'd of the Consequences.

But, my Lords, there is a Reason I have not mention'd yet, that weighs very much with me in favour of this Motion. I am not certain Mr. Keene may be warranted by his Principals for agreeing to this Power, which his Catholic Majesty assumes to himself, *of suspending the Assiento of Negroes, and of dispatching the necessary Orders for the Execution thereof.* But, my Lords, whether he had any instructions upon that Head or not, I think it highly proper that your Lordships should come to some Resolutions, with regard to the Right which the Crown of *Spain* has of suspending a solemn Treaty, such as that of the *Assiento* Contract is, whenever any difference happens betwixt it and that Company. On the one hand, there is no doubt that the King of *Spain* has a Right to demand the Execution of the *Assiento*; on the other hand, he has no Right to make any arbitrary Demands upon the Company, he has no Right to tell them that if they cannot comply with his Demands, be what they will, he will suspend their Contract, and seize upon their Effects. I don't say that we ought to be the Judges in this Affair, but I think we ought to advise and support his Majesty in defending the just Rights and Properties of his Subjects. And, my Lords, we never can know how the Matter stands betwixt his Catholic Majesty and the Company, without having a State of the Affair from the Company themselves, and without knowing what their claim upon the Court of *Spain* amounts to, as well as that Court's upon the Company. When we have these Informations, we shall be able to judge whether this Declaration is founded on justice, or whether it is no better than a shift to avoid performing their part of the Convention. But, whether this Debt is justly due to the *Spanish* Court or not, or whether the Court of *Spain* is indebted to the Company or not, I think this Declaration was a very irregular, and a very extraordinary Step. I think it shewed the highest Disregard to his Majesty, and was a very great Indignity to this Nation. I shall say nothing of the Weakness of our Minister in accepting it, or of signing the Convention clogg'd in this manner. No doubt he had his Reasons for it, which have not yet appeared to the World, I wish they may be to the Satisfaction of the Public; however, I hope your Lordships will agree to the Motion, as I heartily do.'

Question put
in the Negative.

The Question being put, the House divided, and it was carried in the Negative, 49 against 42.

February 23d. Petitions were presented to both Houses, *Ann. 12 Geo. II.*
 by the *West-India Merchants*, by the *City of London*, &c. 1738-9.
 against the said Convention with *Spain*. The City of * *London's* Petition to the House of Lords being presented by the Duke of *Bedford*, his Grace upon presenting it, spoke to the following Effect :

Petitions against
the Convention.

‘ My Lords, I have in my Hand a Petition from a very *Duke of Bedford*, great Body of Men, no less a Body, my Lords, than the Citizens of *London*. The Importance of this Juncture call’d upon them to assemble and deliberate upon the most proper Means of preventing the Effects of the Convention, which they apprehend to be ruinous, not only to them, but the whole Kingdom, from taking Place. Encourag’d, my Lords, by their former experience of your Lordships great indulgence, they resolv’d to proceed in the most dutil manner, by petitioning your Lordships to take the Reasons they are ready to offer against the Convention into your mature Deliberation.

‘ Your Petitioners, my Lords, apprehend that they are too deeply interest’d in whatsoever affects the Trade of this Nation, not to express the utmost Anxiety for the Welfare and Prosperity of the City of *London*, the only Source of our Riches. And it is with an unexpressible Concern, that your Petitioners perceive that the Trade to his Majesty’s *American Colonies* is still expos’d to the Insults of the *Spaniards*, who, under unwarrantable and injurious Pretences, continue to stop, search, and make Prizes of *British* Vessels, navigating in the Seas of *America*, in manifest violation of the Treaties subsisting between the two Crowns.

‘ Your Petitioners, my Lords, humbly apprehend that the Trade from our Colonies in *America*, is now almost the only profitable Trade which this Nation enjoys, unrival’d by others : And they were induc’d to hope, from his Majesty’s known goodness, and paternal care of his People, supported by the vigorous Resolutions of both Houses of Parliament, and the Equipment of a very powerful Fleet, that his Majesty’s trading Subjects, in the Seas of *America*, as well as in all other parts of the Ocean, would not only have received a full Satisfaction for their Losses, occasioned by the Depredations of *Spain*, but also an undoubted Security for their Commerce for the time to come ; and that a reasonable and adequate Reparation would have been likewise obtained, for

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* See the said Petition at Length in *Chand. Hist. Ann. 12 Geo. II.*
 1738-9. p. 419. and the Debate in the House of Com. thereon, p. 424.

Ann. 12 Geo. II. the Barbarities and inhuman Cruelties, exercised by that Nation on the *British* Seamen, who have had the unhappiness to fall into their merciless Hands.

1738-9.

‘ Your Petitioners, my Lords, most humbly beg leave to testify their great Concern and Surprize, to find that, by the Convention lately concluded betwixt his Majesty and the King of *Spain*, the *Spaniards* are so far from giving up their unjust Pretensions of a Right to Visit and Search our Ships on the *American* Seas, that this Pretension of theirs is, amongst many others, referred to the future Regulation and Decision of Plenipotentiaries, appointed on each Side, whereby your Petitioners apprehend it is in some Degree admitted.

‘ Your Petitioners humbly conceive, that they have too much Cause to fear, if the Right pretended to by *Spain*, of searching *English* Ships at Sea, be admitted in any Degree whatsoever, that the Trade of his Majesty’s Subjects to *America* will become, in a great measure, dependant upon the Justice and Indulgence of the *Spaniards*, of both which they have given, for some Years past, such Specimens, as they humbly think this Nation can have no Reason to be satisfied with.

‘ Your Lordships Petitioners beg leave farther to express their Apprehensions, that such a precarious Situation must inevitably expose the Trade to the *American* Seas to continual Interruptions, and perpetual Alarms, as well as to severe Losses; and that to these unhappy Causes, they humbly apprehend, the present low State of the *British* Colonies is owing; and if the cruel Treatment of the *English* Sailors, whose hard Fate had thrown them into the Hands of the *Spaniards*, should be put up without any Reparation, your Lordships Petitioners humbly apprehend, it may be the Means of deterring Seamen from undertaking Voyages to *America*, without an Advance of Wages, which neither that Trade, nor any other, is able to support. Your Lordships Petitioners therefore, having laid before you the high Importance which this Trade is of to the Nation in general, and to this City in particular, thought it their indispensable Duty to represent to the Parliament the fatal Consequences of leaving the Freedom of their Navigation and Commerce any longer in Suspence and Uncertainty, and therefore they humbly hope your Lordships will take it into mature Deliberation, and do therein as to your great Wisdom shall seem meet.’

The Lord Carteret.

Lord Carteret.

' My Lords, As I was coming into the House, a Petition was put into my Hands, from divers Merchants, and others trading to, and interested in, the *British* Plantations in *America*, in behalf of themselves and many others Your Petitioners, my Lords, seem to be the more encourag'd to present such a Petition, from the Consideration of the Resolutions your Lordships came to last Year upon this Subject. I remember, my Lords, that I had the Honour to suggest some things to your Lordships, that put that Matter in a Light different from what it had ever before been considered in; and there is no wonder, if all the Nation, especially those in it who are more immediately interested in the Commerce of *America* are surprized at the Variation they observe betwixt your Lordships Resolutions, and the Terms of the Convention, as now publish'd by Authority.'

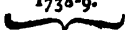
His Lordship then proceeded to open the Petition, which set forth, That the Petitioners had last Session made their humble Application to Parliament, setting forth the continued Depredations committed by the *Spaniards* on the high Seas of *America*, upon the *British* Shipping and Property; their barbarous and inhuman Treatment of the *British* Sailors on the taking of their Ships, and their carrying them afterwards into Slavery in *Old Spain*, (the *Spaniards* making it their constant Practice to attack and board all *British* Merchant Ships they met with in the *American* Seas, under Pretence of searching for Goods, which they deemed contraband, according to their arbitrary Will and Pleasure, contrary to the Law of Nations, and in manifest Violation of the Treaties subsisting between the two Crowns) and that by these unjust and violent Proceedings of the *Spaniards*, the Trade and Navigation to and from *America*, was rendered very unsafe and precarious, insomuch that the Insurances had greatly risen on these Accounts only; and that the Petitioners having been heard by their Counsel, did, as they apprehend, fully make out in Proofs, every one of the Allegations of their said Petition, to the entire and unanimous Satisfaction of Parliament; upon which Application, the following Resolutions were agreed upon, *viz.* (Here the Petitioners recited the Resolutions of the preceding Session, for declaring the Rights of this Nation, and for addressing his Majesty to use his Endeavours for the Preservation of those Rights; and then they went on as follows, *viz.*)

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Ann. 12 Oct. 11.

1738-9.



That a Convention had since been entered into between the Crowns of *Great-Britain* and *Spain*, which his Majesty has been most graciously pleased to order to be laid before Parliament; and the same having been published by Authority, the Petitioners observe, with the utmost Concern, that the *Spaniards* are so far from giving up their groundless and unjustifiable Practices, of visiting and searching *British* Ships, sailing to and from the *British* Plantations, that they appear to have claimed the Power of doing it as a Right, by having insisted that the Differences which have arisen concerning it, should be referred to Plenipotentiaries, to be discussed by them, without even agreeing to abstain from such Visitation and Search, during the Time that the Discussion of this Affair may last: That the Petitioners are under the greatest Apprehensions, since *Spain* has contended, that a Point so incontestably clear, both by the Law of Nations, and all the Treaties subsisting between the two Crowns, should come under Debate, that the *Spanish* Plenipotentiaries will be instructed not to give it up; and that, if the Freedom of our Navigation and Commerce, to and from our own Colonies, should be left in Suspence, and in a precarious Situation, it must be attended with the most fatal and pernicious Consequences to the Petitioners, whose Persons and Fortunes will thereby be in the Power of the *Spanish Guarda Costa's*, without any Prospect of Relief, the Petitioners having already too severely experienced the Justice of the *Spanish* Courts and Governors, to consider them as any Security; and therefore praying, that the Petitioners may have an Opportunity of being heard, and that they may be allowed to represent to Parliament, the great Importance of our Trade to and from our own Plantations in *America*, the clear and indisputable Right which we have to enjoy it, without being stopp'd, visited, or search'd by the *Spaniards*, on any Pretence whatsoever, and the certain and inevitable Destruction of all the Riches and Strength derived to this Kingdom from that Trade, if a Search of *British* Ships, sailing to and from the *British* Plantations, be tolerated upon any Pretext, or under any Restrictions or Limitations, or even if the Freedom of this Navigation should continue much longer in this State of Uncertainty. And his Lordship concluded with a Motion, 'That the Petitioners should be heard by themselves or Counsel, if they thought fit.'

The Earl of *Isla*.

Earl of *Isla*.

'My Lords, I am very ready to acknowledge the Importance which the Body of Merchants trading to *America* is of
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to this House ; and no Lord shall be more ready than myself Ann. 12 Geo. II.
1738-9. to concur in every thing that can contribute to their Relief.

But, my Lords, I own to your Lordships, that I wish they had applied for it in a more decent and dutiful Manner. I am very sensible, my Lords, that it is the Privilege of every Man, and every Body of Men, in this Nation, to petition the Parliament: But then, my Lords, these Petitions ought to be brought up in such a Manner, as may shew that the Petitioners have nothing else in view, than to obtain Justice, by the most lawful and the most dutiful Means. Petitioners, my Lords, are not to come up tumultuously to Parliament, as if they were resolved rather to force Justice, than petition for it. Besides, my Lords, Petitions of this kind ought to be founded on an Apprehension which the Petitioners have, that the House may not be thoroughly informed of their Rights, and therefore they humbly beg leave to explain them more fully. The Petitions, my Lords, we have now heard, appear calculated to serve private and mean Purposes, and to inform us of things that have been already fully debated, and are thoroughly understood. There are no real Facts in these Petitions, but what must occur to every Lord, when the Convention shall be debated ; and if the Petitioners apprehend that we are to approve of this Convention, if it shall not be found for the Interest and Honour of the Kingdom, I think, my Lords, they pay but a very sorry Compliment to your Lordships Justice. I should be glad, my Lords, to know how they came to suppose such a thing: It can proceed from no good Principle ; and I am of opinion, that it betrays rather a Spirit of Faction, than of Submission to the Determination of their Superiors. However, my Lords, I am far from thinking that it may not be proper to hear what the Petitioners have to say on the Subject of the Petition ; the Consideration of this Convention will, no doubt, occasion a good deal of Enquiry into the Commerce of *America*, and Manner of Navigation ; therefore, my Lords, I am very willing to give my Voice for their being heard by themselves at the Bar of your House.'

The Lord Delaware.

' My Lords, Precedents have always been thought the Lord Delaware, proper Guides to this House, in all Matters of Form ; and I have in my Hand a Precedent, which, in my humble Opinion, comes fully up to the Affair now before us: It is, my Lords, the Case of the *British* Merchants, when the Treaty of Commerce betwixt *France* and *England* was concluded, at the latter part of the Reign of Queen *Anne*. The Inter-

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Ann. 12 Geo. II.

1738-9.



rest of *Great-Britain*, my Lords, was as much concerned in that Question, as in any that has happen'd since : We were then upon the Point of concluding a Treaty of Commerce, which must have been destructive of the Trade of this Nation, and rais'd the most formidable Rival of our Power upon the Ruin of our Merchants : But, my Lords, happily for us, the Genius of the Nation prevail'd over all the Arts of a corrupt Ministry, who had already sacrificed but too much of our national Honour, by concluding a weak and disadvantageous Peace. The Merchants, my Lords, were heard at the Bar of this House against the Treaty ; they shew'd how destructive it would prove to the Trade of this Nation, if ever it should take place ; and this House, my Lords, had so much Regard to what they advanc'd, that the Treaty, at least those Articles in it that were prejudicial to our Interests, was thrown out. But, my Lords, I don't find by your Lordships Journals, that the Merchants were then allow'd any Counsel ; nor do I remember, for it happen'd in my Time, my Lords, that they ask'd any : They were too sensible of your Lordships Indulgence, and Tendernefs for their Interests, to doubt of their being very safe in your Hands, without having them represented by Lawyers. All, my Lords, that, in the present Case, we have to do, is, I humbly conceive, to examine into Facts ; and we can easily judge from them, how far this Convention is for the Advantage of this Kingdom. I don't see the least Occasion, my Lords, for Law ; it may perplex and puzzle, but it can never direct nor inform us in this Case. Therefore, my Lords, especially, as, I conceive, that there is no Precedent of our any in the like Circumstances to be heard by their Counsel, I think it will be sufficient if they are heard by themselves, at the Bar of the House, as to the Facts upon which the Allegations in their Petition are founded.'

The Lord Carteret.

Lord Carteret.

' My Lords, the Case of the Petitioners is of a very extraordinary Nature ; so extraordinary, my Lords, that I don't believe, if we consider it in all the Lights it will admit of, that ever the like was brought before your Lordships, and, consequently, there can be no Precedent by which we can determine the present Question. I, my Lords, was, it is true, not very old, when the Precedent brought by the noble Lord happen'd : But, my Lords, I was not so young but that I could make some Observations, that have been of use to me since ; and my Lords, give me leave to say, that nothing could differ more from the Case of the Merchants at
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that Time, than the Case of your Petitioners now. The Ann. 12 Geo. III.
 Merchants were heard against the Treaty of Commerce. my Lords, not in Consequence of a Petition to your Lordships. 1738-9.

My Lords, you thought fit, when that Treaty was communicated to you, to send for the Merchants; you examined them; you encouraged them, my Lords, to declare their Grievances; your Lordships yourselves were Counsel for them; for, my Lords, you found their Objections so strong against the Treaty, that it was thrown out. How does this tally with the Case now before us? Your Petitioners have been great Sufferers by the *Spaniards*, and they see a Peace ready to be concluded, in which, they apprehend, not only their future Interests may be neglected, but their past Wrongs are not sufficiently repaired. My Lords, this makes them Parties; and it has ever been a Rule with the Parliament of *Great-Britain*, to hear all Parties by Counsel, when any thing depends before either House, which they conceive may affect their Properties. It is true, my Lords, that the Legislature are the best Judges of the Manner in which the general Rights of this Nation are to be secured; but, I believe we shall not be very fond of approving any Measure that may encroach upon private Property. The Merchants who were concern'd against the Treaty of Commerce with *France*, my Lords, had no private Property at stake; all that was then to be consider'd was, how far the Trade of the Nation would be affected by that Treaty; therefore there was no Occasion for Counsel, a bare Representation of Facts was sufficient for that Purpose: But, my Lords, that is not sufficient now; there are many Claims of our Merchants to be discussed; we are to hear from them, or their Counsel, the Grounds of their Claims; and we are to consider upon what Foundation our Commissaries proceeded, when they took upon them to make such large Deductions from those Claims. My Lords, we don't know what particular Intricacies there may be in such an Enquiry; and therefore I cannot but think, that it would be doing a Piece of Hardship to the Petitioners, if we refused to hear them in any manner that they think can best serve their Purposes.

But, my Lords, besides the Reasons I have already advanced, to shew that the Case before us, and the Precedent brought by the noble Lord, are no way parallel, I have another Reason for allowing the Petitioners to be heard by Counsel, I don't doubt, my Lords, of our having as sensible and as honest Men among the Petitioners, as there are in any Country: but, my Lords, give me leave to say, that few Ages and few Countries produce such a Man, as he who was the Mouth of our Merchants upon that Occasion: My Lords,

Ann. 12 Geo. II. 1738-9. where he spoke, there was no Occasion for Counsel ; he talk'd, my Lords, like a Statesman, a Lawyer, and a Merchant, at once : I do not know, my Lords, if ever we had a greater Man, in his Way : Therefore, my Lords, unless we could be sure of there being such another Man among your Petitioners, at present, I think we ought, by all means, to hear them by Counsel, if they should think fit. Perhaps, my Lords, there may be no Occasion for it ; perhaps, the Information we may receive from themselves, will be sufficient to determine us : But, my Lords, I think their Case is so hard, and so very singular, that we ought rather to suggest Advantages to them, than deprive them of any Advantages for which they may petition to us.'

The Lord *Delaware*.

Lord *Delaware*.

' My Lords, it is next to impossible, that any two Cases should be so exactly parallel, as that the one should serve as a Precedent to the other in every respect : The present Case, my Lords, is as much parallel to the Precedent I have brought, as, I believe, any Case ever was to another : If this Petition never had been presented, I dare say, my Lords, we should have thought fit to have heard what our Merchants had to say upon this Subject : I think, my Lords, it is extremely reasonable that we should receive from them all the Information that is possible ; but, at the same time, my Lords, I am for our proceeding in the same manner, as if this Petition never had been brought up. The noble Lord who spoke last, must allow, that if this Petition never had been presented, the Petitioners would have had no Right to claim to be heard by Counsel : And, my Lords, I dare say the noble Lord will admit, that their Interest would have been as safe then as now. Can any Man say, that, when the Treaty of Commerce with *France* was examined, the Merchants of *Great-Britain* were under any Disadvantages, in not being heard by Counsel ? My Lords, I dare say, he will not. And, my Lords, give me leave to say, that the Treaty of Commerce was a Subject that afforded as great room for Lawyers to speak upon, as any thing that can possibly occur in our Proceedings upon this Convention.'

The Earl of *Abington*.

Earl of *Abington*.

My Lords, I own to your Lordships, that I don't look upon this Question in the same Light with the noble Lord who spoke last : I think, my Lords, a great many things will come to be considered by us, when the Convention shall be

be debated, that we cannot learn from our Merchants : One of the most material Points of Difference betwixt *Spain* and us, my Lords, is the Right which, it is plain, they claim, to a Sovereignty in the Seas of *America* : This becomes a Question in the Civil Law ; and, my Lords, give me leave to say, it is such a Question, as, I believe, few Lawyers we now have can put in a proper Light for our Information : I am sorry to say it, my Lords, but I do think, that the Study of the Civil Law is too much neglected in this Country ; and I am afraid, that when we enter upon that Discussion, we shall be very much obliged to the noble * Lord who sits over against me, and has already spoke in this Debate : His Lordship, and the other Lords of his Country, I believe, my Lords, know more of the Civil Law, than most Lords of this Country have, from their Education, had Opportunities of knowing. It is, my Lords, a part of the Education of the Noblemen and Gentlemen of that Country ; and if the noble Lords of that Country should happen to be all of one Mind, with regard to this Point, I don't see how we can come at any sufficient Knowledge of what may be said on the other Side of the Question : Therefore, my Lords, I am entirely for agreeing to the Motion, and granting the Petitioners all the Indulgence that they can ask in Reason, or we can grant in Justice.

Ann. 12 Geo. II.

1738-9.

The Lord Chancellor.

' My Lords, it is with the utmost Pleasure that I see Dispositions so favourable for the trading Interest of this Nation prevail among your Lordships. My Lords, I think the only Contention in the present Case among your Lordships is, who shall favour the Merchants most. The Reason why the two noble Lords are of Opinion they ought to be heard only by themselves, seems to be, because a plain Matter of Fact, honestly told by a Merchant, will make a more deep Impression in the Mind, and contribute more to your Lordships Information, than it could do with all the Pomp and Embellishments of artificial Oratory. The other Lords are of Opinion, and, indeed, I own myself to be of the same Opinion, that the Petitioners ought to be denied no Favour they can reasonably ask ; and that some Points of Law may arise proper for Lawyers to represent. My Lords, it is true, that at present I don't foresee any particular Intricacy of that kind, but it is as true, that such an Intricacy may arise, and therefore I can see no Inconveniency attending our indulging the Petitioners in their Request ; at the same time, I think it is but of very little Consequence, either one way or another ;

Lord Chancellor.

1738-9.

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* Meaning the Earl of *Lisles*.

Ann. 12 Geo. II.
1738-9.

the Interests of the Petitioners are in either Event safe, when your Lordships are Judges ; and, I dare say, if your Lordships were of Opinion, that our complying with this Motion could any way contribute to your farther Information, the House would unanimously agree to it. In the mean time, my Lords, I am for indulging the Petitioners, if the noble Lords who made and supported the Motion, shall think fit to insist upon it.

The Earl of Chesterfield.

Earl of Chester-
field.

‘ My Lords, nobody will, I believe, suspect my Zeal for the Relief of our suffering Merchants. Their Wrongs call aloud for Reparation ; and the Nation requires that the strongest Security should be given for the Preservation of her Rights in Time to come. I wish both these, my Lords, may have been sufficiently taken Care of in the Convention ; but I won’t anticipate your Lordships Debate on that Subject : I cannot help saying, however, that to me it is a most unfavourable Symptom of its being for the Good of the Nation, when I see so strong an Opposition made to it without Doors, by those who are the most immediately concerned in its Effects.

‘ The Question with your Lordships is, Whether Counsel ought to be allowed to the Petitioners, or not. My Lords, I think this Question ought to have admitted of no Debate. If the Petitioners desired to be heard by Counsel, I think it was reasonable they should. I think, my Lords, no Precedent should be brought to debar them of any Indulgence they can, consistently with Justice, ask. My Lords, if there are no Precedents in our Journal for hearing them by Counsel, we ought to make a Precedent in this very Case, if the Petitioners shall think fit to insist on its being for their Advantage, or necessary for our better understanding the Allegations of their Petition.

‘ But, my Lords, I own myself to be so far of the noble Lord’s Opinion who spoke last, that it is a very indifferent Matter to the Petitioners whether they are heard by Counsel or not. I can see no Advantage that Counsel can be to them in their present Situation. Lawyers, my Lords, can be of no Service in giving us either clearer or truer Information ; and, my Lords, if we sincerely want to know the Truth, and nothing but the Truth, we are to hear it from the Mouths of the Merchants themselves ; because, my Lords, it is their Interest to speak Truth, and Interest never lies. Let us, therefore, my Lords, hear them by themselves ; and I dare say, your Lordships will find that their Grievances have been

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of such a Nature, as to require no Embellishments of Language to recommend them to your Lordships Consideration. I dare say farther, that your Lordships, at the same time will find the Necessity of our future Security so plainly pointed out, as to stand in need of no Terms of Law to prove it. Thus, my Lords, we shall hear the Language of the Heart, a Language we may safely trust to; a Language, my Lords, which I am afraid has been little talk'd, has had but little Influence in the Conferences that preceded this Convention. As for Counsel, my Lords, if it be found necessary, the Petitioners are still at Liberty to apply for it: But I say, my Lords, let us in the mean time hear the Merchants themselves, and if Justice shall be denied them where Justice is expected, all the Kingdom, my Lords, all *Great Britain* will be their Counsel.

Ann. 12 Geo. II.
1738-9.

The Question being then put, That the Petitioners be *Vote in Favour* heard by themselves at the Bar of the House, when the *of the Petitioners* Convention shall be read a second time, it was unanimously agreed to.

The House of Lords having heard the Merchants upon *Convention taken* their Petition against the Convention, and having examined *into Consideration* several Witnesses, they appointed the first Day of *March* for taking farther into their Consideration the Convention between *Great Britain* and *Spain*, and the House to be summoned.

Accordingly, as soon as the Order of the Day was read, the Earl of *Chalmersley* stood up, and spoke as follows,

'My Lords, We are now met in order to approve or disapprove of a Measure that has made a very great noise in the World, *Earl of Chalmersley* and is of the utmost Consequence to the Honour and Interest of this Nation. As your Lordships have, with great Patience and Candour, heard the Petitioners against the Convention, your Lordships cannot miss now of being thoroughly informed of every possible Objection to it. For my own Part, my Lords, I have given all the Attention that I was capable of giving in this Affair: I have endeavoured, as much as possibly I could, to be quite unbiass'd; and, I flatter myself, the Judgment I have form'd of this Measure, is the Result of an impartial Inquiry into its Merits. I don't know whether I shall be so fortunate as to have your Lordships of the same Opinion with me; but I hope your Lordships will indulge me a little, while I give my Reasons for a Motion that I shall take the Liberty to make.

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Ann. 12 Geo. II.
1738-9.

‘Whoever, my Lords, considers the mutual Interests of *Great Britain* and *Spain*, will easily allow that these Interests are best consulted by cultivating a strict Peace and Harmony with one another. *Great Britain*, whose Welfare depends upon a Trade, in which she has now many Rivals, reaps great Advantages from a free and uninterrupted Commerce with *Spain*. And, on the other hand, the Necessity that *Spain* is under to cultivate a good Understanding with *Great Britain* is so evident, that it is become even proverbial amongst them. The Advantages of a good Understanding being thus mutual, it is to be presumed that the Ministers of both Crowns will be equally desirous, equally sincere in removing all Impediments to so desirable an End. At the same time, my Lords, the great Intercourse betwixt the Subjects of the two Nations, the Neighbourhood of their Possessions, and, give me leave to add, the different Genius of the two People, render these Impediments pretty frequent; and they are of such a Nature, as not to be surmounted but by each Party wisely yielding a little to the other. As their Possessions in *America* is the Source of their Wealth, and as the Trade which we carry on with our Settlements there, is the most valuable Branch of our Commerce, the Preservation of that Trade, and these Possessions, free and entire, is what each Nation is presumed principally to have in View. But as these Possessions and Settlements lie at such a vast Distance from each Nation, there is no wonder if it is often very difficult for the Government in *Europe* to form a right Judgment of the Facts that create Differences betwixt the two Crowns; the Officers of both representing Matters to their own Court in such Colours as may best excuse their own Conduct, or promote their Interest. So that, though each Crown had the best Dispositions in the World to do Justice to the Subjects of the other, it is many times next to impossible for either to form a true Judgment of Matters so soon as the Impatience of the Parties requires.

‘I am apt to believe, my Lords, that the Differences, which have so long subsisted between the Courts of *Great Britain* and *Spain*, are rather owing to these Causes, than to any Claim of Sovereignty on the *American* Seas, or to any exclusive Right of Navigation the *Spaniards* pretend to on these Seas. The first, my Lords, has never yet been owned by the Court of *Spain*; and, indeed, it is too ridiculous a Claim for any People, not absolutely void of common Sense, to insist on. The other Claim, I think, is given up by the Convention. The Preamble, my Lords, of that Treaty says, That *whereas Differences have arisen between the Courts of Great Britain and Spain, on Account of visiting,*
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searching and taking of Vessels, the seizing of Effects, the Regulation of Limits, and other Grievances alledged on each Side, (for, my Lords, the Spaniards have their Grievances as well as we;) therefore his Britannic Majesty, and his Catholic Majesty, having nothing so much at Heart as to preserve and corroborate the good Correspondence which has so long subsisted, have granted full Powers to their Plenipotentiaries to conclude this Convention. This Preamble, my Lords, shews a sincere Intention, in each of the Contracting Powers, to yield to the just Demands of the other. We, on our Side, have complained of the Searching, Visiting and Taking our Ships, and the Seizing our Effects. The Spaniards, on their Side, complain, that we have encroached upon their Limits. Both Crowns are sensible, that, unless the Causes of these Complaints are removed, a Rupture must follow.

Ann. 12 Geo. II.
1738-9.

‘But, my Lords, as we have already suffered a great deal, as our Trade has been put under great Encumbrances, and the Losses of our Merchants have been considerable, it was but reasonable that our Claims should have a Retrospect. Accordingly we find, that the first Article of the Convention not only provides for the removing of all Complaints for the future, but contains a general Acknowledgment of our Right to Satisfaction for what is past.

‘In that Article, my Lords, we find, ‘That the adjusting and regulating the Pretensions for reciprocal Reparation of the Damages already sustained, and, above all, to find out Means to prevent the like Causes of Complaint for the future, and to remove absolutely, and for ever, every Thing which might give Occasion thereto, is acknowledged to be the only Means of establishing, on a lasting Foundation, the ancient Friendship so desirable and necessary for the reciprocal Interest of both Nations, particularly with regard to Commerce’ This, I am persuaded, your Lordships will agree to be the Point, which our Ministry ought to have had principally in View; and give me leave to say, my Lords, they were directed in this by your Lordships Resolutions, which included Satisfaction for past, and Security against future Injuries. Thus, my Lords, your Lordships and the Ministry have proceeded on the same Foundation, you have laboured to effect the same End.

‘What remains now to be consider’d is, whether the Measures which the Ministry have taken, whether the Stipulations in this Convention are the proper Means of obtaining these great Purposes. Whoever considers, my Lords, the Variety of Disputes and Pretensions that have subsisted of late between our Court and that of Spain, must readily allow

Ann. 12 Geo. II.
1738-9.

low, that is impossible to adjust them all at once. For this reason the Administration of *Great Britain* found itself under a Necessity of delaying, for eight Months, the Conclusion of the definitive Treaty, by which the respective Pretensions of the two Crowns are to be finally regulated. But his Majesty had so great a Regard to the Interest of his injured Subjects, that he insisted upon, and obtained a definitive and express Article for immediate Reparation. I know, my Lords, it has been objected to this Convention; that the Renunciation of all Claims which the *Spaniards* have to stop or search our Ships, ought to have been the first and the most express Stipulation, for fear that in the ensuing definitive Treaty sufficient Care should not be taken of that Point. But, my Lords, I cannot see the least Foundation for this Objection; the Security of our Navigation, even by this Preliminary, is strongly provided for. We find, by the latter Part of the first Article, that the Plenipotentiaries are far from being at liberty to act in this Respect as they please: They are tied down to proceed according to the Sense of all the Treaties now subsisting between the two Crowns. Your Lordships have found, that, by these Treaties, the Freedom of the Navigation and Commerce of the *British* Subjects in the *American* Seas is sufficiently established. Therefore, my Lords, if this is all that we want in a definitive Treaty, as our Plenipotentiaries are tied down by those former Treaties, I should be glad to know where the Force of this Objection lies:

‘ The Treaties which are referred to, my Lords, are no less than eight; and as each preceding Treaty received a Confirmation by the subsequent, so the definitive Treaty, that is to be concluded in eight Months from the Date of this Convention, must give a farther Confirmation to every one of them. Our Ministers therefore, my Lords, have acted in this Measure no otherwise than the Ministry in all Ages have acted, when the Points in Dispute could not be immediately settled by the precise Words of the Treaties already in force. In such case all that a Minister can do, is to make another to explain them. They are to make express Provisions in that Treaty for all those Cases which occasion Doubt or Dispute, whereby the Meaning and Intention of the preceding Treaties is farther ascertain’d.

‘ This, my Lords, is exactly the Case betwixt *Spain* and *Great Britain*. We can make no Treaty with that Court, by which we can acquire any additional Security for our Navigation and Commerce, which we have not already stipulated to us, in effect, by preceding Treaties. But we can make a Treaty, in which the Stipulations shall be

more

more comprehensive and express, so as to avoid all future Disputes. As this is, and was, the only View of our Ministry in the late protracted Negotiations, I do not see what greater Satisfaction the Nation can have, as to the definitive Treaty that is to follow this Convention, than the expressly naming all former Treaties, according to which all Pretensions are to be finally regulated.

Ann. 12 Geo. II.

1738-9.

‘ Let us suppose, my Lords, that the *Spaniards* entertain some chimerical Notions, which at present they don’t think fit to divulge ; and that they are from thence resolved to insist upon certain Stipulations in the Definitive Treaty, prejudicial to our Interests : I say, supposing this to be their Design, we have prevented both their persisting therein, and our Negotiators making any Concessions of that kind. They must, by this Article, have a Retrospect to former Treaties. The Tenour of these, is to be their Rule. This Article, therefore, my Lords, is equal to a formal Renunciation of their Claim to a Right of stopping, searching, and plundering our Ships ; because, while they acknowledge the Validity of these Treaties, they, in the strongest manner, disavow all such Pretensions : Nay, my Lords, I think that, according to the Circumstances betwixt us and *Spain*, it is a much stronger Security than we could have had from any Renunciation ; because we treat with this Advantage on our Side, that we have 155,000 *l.* in Hand, as an Earnest for their abiding by every Stipulation.

‘ It may be here objected, that the *Spaniards*, very probably, entertain a quite different Notion of the Sense of these Treaties ; and that when they agreed that the Proceedings of the Plenipotentiaries should be according to them, they imagin’d that the Tenor of these Treaties gave them a Right to search our Vessels upon the *American Seas*. This Objection, I apprehend, may be remov’d several Ways : And first, my Lords, their owning themselves indebted to our Merchants, is a full and a direct Acknowledgment that they acted against the Meaning of Treaties, as often as they stopp’d and search’d our Ships upon these Seas. This, my Lords, is self-evident ; for if they believe that these Treaties give them a Right to search, how can we suppose that they would consent to pay Damages for confiscating our Ships, a natural Consequence of their Search ?

‘ Therefore, my Lords, I do affirm, that the *Spaniards* could not have given us a stronger proof that they now understand these Treaties in the very same sense with your Lordships, and with all *England*, than their paying Damages for having pretended to understand them in a different Sense.

1738-9.

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‘ But,

Ann. 12 Geo. II.

1738-9.



‘ But, my Lords, whether they understand these Treaties in the same Sense with us, or not, it will be no Disadvantage to *Great Britain*. Suppose the Plenipotentiaries on both sides are met, and enter upon this Point: They differ about it: What is the Consequence, my Lords? Why the Conferences are broken up, and we do then the very same thing that we can do now; we declare War; but with this Difference, that we shall then carry on the War with 95,000*l.* more in our Pockets than we have at present; besides which, we may add a still greater Advantage, an uninterrupted Prosecution of our Commerce for six or eight Months longer. There is still another answer to this Objection, my Lords: The *Spanish* Ministry are sufficiently apprized of the Construction which *Great Britain* puts upon these Treaties: They see it by the Resolutions of both Houses of Parliament, and they see it in every Memorial presented on that Subject; so that, unless they had been resolved to settle this Point in the very manner in which we understand it, we cannot suppose that they would have agreed to the Payment of the Money, or put themselves to the Trouble of appointing Plenipotentiaries, and holding Conferences to no Purpose.

‘ They can’t flatter themselves that our Plenipotentiaries will dare to understand these Treaties in any other Sense than what both Houses of Parliament have affix’d to them, or that our Ministry will advise the Ratification of any such unauthorized Treaty. Upon the whole, my Lords, I will venture to say, that I have unanswerably remov’d the grand Objection against this Convention, of its not being a definitive Treaty, or a Treaty which finally ascertains the Commercial Rights of this Nation, and guards against their Violation for the future. Thus, my Lords, I humbly hope I have made out my Proposition, with regard to the Reasonableness and Advantages of this Article, to your Lordships Satisfaction.

‘ So great a Concession being made on the Part of the *Spaniards* (and I will venture to say, my Lords, that it is as great as ever was made by any People not absolutely reduc’d) it was proper to take the other Subjects of mutual Complaint betwixt the two Nations under Consideration. That of the greatest Importance, next to the Liberty of an unmolested Navigation, related to the Limits of *Carolina* and *Florida*. The *Spaniards* contend, that, in our Settlement of *Georgia*, we have made some Encroachments upon their Frontier. We deny it; therefore this Affair is left, by the second Article, to be settled by the Plenipotentiaries. But, my Lords, this does not at all weaken the Right we insist on to the Province of *Georgia*. This Right, as well

as that to a free and uninterrupted Navigation, is establish'd by the Treaties (particularly the *American*) which are to regulate the Proceedings of the Plenipotentiaries. Our Ministry, therefore, have done wisely in thus referring that Matter to a future discussion. Besides, my Lords, it is very possible that the *Spaniards* may have some just Causes of Complaint with regard to the Boundaries of those Provinces. However, it is reasonable, at least, to hear what they have to say upon this Head; and, if their Complaints are well grounded, to remove the Cause of them. This, my Lords, is no more than doing as we would be done by. As to leaving the Territories of both in the same State they are in at present, without raising or carrying on any additional Fortifications, it is an Article that we cannot justly complain of; for, besides the Equity of the Thing in itself, it is as much for our Interest as for that of *Spain*, since they have no more Liberty in this Respect than we have. Besides, it is an usual Stipulation in all Treaties made for settling Boundaries.

Ana. 12 Geo. 14.

1738-9.

The next Article, my Lords, relates to the Satisfaction which our Merchants are to have for their past Losses, and is Definitive. By this, my Lords, his Majesty has set a noble Example to his Successors, in providing immediately for the Interest of his Subjects, while the Interests of his Crown are referred to a future Discussion. It is true, that the Sum stipulated for their Relief is not equal to their first Demands, but no reasonable Person will object to this, when he reflects that Losses of this kind are commonly aggravated; and that it would have been Imprudent, if not Unjust, to have insisted upon the Rigour of such Demands, and thereby have defeated the whole. Accordingly, our Commissaries thought fit to reduce the original Sum to 200,000*l.* When this was done, my Lords, there was still another Difficulty. His Catholic Majesty's Funds in *America*, from which this Money was to be paid, are very uncertain, and the Disbursements from them slow and precarious. His Ministers insisted, that Payment should be made either in the places where the Confiscations happen'd, which must have been a vast Inconvenience to the Sufferers; or that they should accept of Security for it on the *Chamber of Commerce at Seville*. This was still worse, by reason of the Difficulties that attend such a Payment, and the Perquisites that must be deducted for the several Officers. Upon these accounts a further Deduction of 45,000*l.* was allow'd for prompt Payment, which is to be made at *London*, within four Months after the Exchange of the Ratifications. Now, my Lords, as we had made such Deductions, it was but reasonable that the *Spaniards*

Ann. 12 Geo. II.
1738-9.

Spaniards should likewise on their Parts recede from the Rigour of their Demands, which amounted to 180,000*l.* and were reduced to 60,000*l.* This Abatement, in proportion to the Sum, is considerably larger than that made on our Part, and is a Proof, both of the Zeal of the Ministry here for the Interests of the Nation, and of the Willingness and Sincerity of the *Spaniards* to fulfil their Engagements. This Abatement was the more extraordinary, being made out of a Debt that we had, by Treaty, own'd to be due. The same Article provides, that it shall not be pretended that these reciprocal Discharges extend to the Accounts and Differences which subsist, or are to be settled between the Crown of *Spain* and the *South-Sea* Company. By this, my Lords, we see that all the Accounts betwixt that Crown and the aforesaid Company are entirely distinct from those that are settled by the Commissaries appointed by the Treaty of *Seville*, and that his Catholic Majesty has no manner of Pre-tence for detaining a Shilling of this 95,000*l.* on account of any Debt that may be owing him by the *South-Sea* Company. On the other hand, my Lord, by this Article, Care is taken that the *South-Sea* Company shall be entitled to all the Debts which they can claim of that Crown, or its Subjects.

'The fourth Article, my Lords, relates to some Ships, the Value of which was included in an Estimate made by the Commissaries appointed by the Treaty of *Seville*, and which makes a Part of the 155,000*l.* stipulated for the Relief of our Merchants. Nothing, therefore, could be more reasonable than, if, in Consequence of the Orders dispatched to the Court of *Spain* for that purpose, the whole, or any part of the Payment for these Ships has been made in *America*, such Payment should be deducted out of the stipulated Sum. Care is, notwithstanding, taken in the same Article, that the Payment of the 95,000*l.* shall not be, for that Reason, in any manner delayed; so zealous, my Lords, was our Ministry for obtaining an immediate Relief for our suffering Merchants; and so willing was the Crown of *Spain* to grant it, that, by the latter Part of the Article, she entirely relies on the Faith of the Government here, for refunding what shall appear to have been already paid.

'The next Article, my Lords, provides that the Ratifications of this Convention shall be delivered or exchanged at *London*, within the Space of six Weeks, at farthest, after they are signed. This, my Lords, is as short a Time as could have been allowed for that Purpose, and shews, that our Ministry here were resolved that not a Day should be lost in bringing this Affair to a speedy Issue.

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‘ The first separate Article, my Lords, is calculated to remove the common Objection of the Tediouſness of all Negotiations with that Court. By this Article, the Ministers Plenipotentiary, who are to meet at *Madrid* within the Space of six Weeks, to be reckoned from the Day of exchanging the Ratifications, are named on the Part of *Spain* as well as of *England*; and, by the latter Part of the said Article, a very short Term is appointed for the Payment of the 95,000 *l.* In fine, my Lords, to conclude this short View of the Stipulations of the Convention, the Ministry has had so just a Regard to the Interest of the Subjects, that an express Provision is made for the Restitution of a Ship, the Value of which is not comprehended in the Estimate made by the Commissaries; because, it seems, the Circumstances of her Capture were, on the Part of *Spain*, more inexcusable than those of any of the other Captures.

Ann. 7^a Geo. II.
1738-9.

‘ From this impartial Survey, my Lords, I hope it will appear to your Lordships, that his Majesty, in the whole Course of this Negotiation, has had nothing so much at Heart as the Interest of his Subjects; and that the same has been faithfully and successfully prosecuted on the Part of his Ministry. This Negotiation; my Lords, therefore, may be justly looked upon as the Performance of those Promises and Assurances which the Parliament has received from the Throne, as often as it has addressed it on this Head. And as the Prosperity of his Majesty’s Subjects, and the Honour of his Crown are inseparable, a just Regard in all the Stipulations has been had to those important Points. Care has been taken, that all the Concessions that are made in this Treaty, have been made on the Part of *Spain*. Therefore, my Lords, I hope, on this Occasion, all Contentions and Animosities will cease amongst us, since his Majesty has now removed the Causes which have so long and so unhappily divided us.

‘ This, my Lords, is the only Means of making a just Return to the Regard which his Majesty has always expressed for your Lordships Resolutions and Advice, since every Step of this Negotiation has been conducted, according to what appears, to have been the Sentiments of Parliament.

‘ Your Lordships, in all your Deliberations upon this great and important Affair, have express’d a just Sense of the Miseries which War entails upon a Trading People; you have expressed your Desire of securing the Blessings of Peace, if they could be secured with the Dignity and Interest of this Nation. This Negotiation, my Lords, crowns the Wishes of Parliament, by answering all these great Ends; and it has been conducted in such a manner, as to convince those with whom

Ann. 12 Geo. II.
1738-9.

Moves for an Ad-
dress of Appro-
bation.

whom we were treating, that his Majesty was as ready to do himself Justice by Arms, as he was willing to receive it by Negotiation. No sooner, my Lords, was this Convention concluded, than his Majesty laid the Treaty before this House. All that now remains, is, for your Lordships to add Strength and Weight to his Majesty's Negotiations, by your Approbation. Therefore, my Lords, I take the Liberty to move, That an humble Address should be presented to his Majesty, to return his Majesty the Thanks of this House, for laying the Convention between his Majesty and the King of *Spain*, dated the 14th Day of *January* last, together with the separate Articles, before this House: To declare that we think it our indispensable Duty, on this Occasion, to express our just Sense of his Majesty's Royal Care of the true Interest of his People, and to acknowledge his great Prudence, in bringing the Demands of his Subjects for their past Losses, which had been so long depending, to a final Adjustment by the said Convention, and procuring an express Stipulation for a speedy Payment; and in laying a Foundation for accomplishing the great and desirable Ends of obtaining future Security, and preserving the Peace between the two Nations: To beg leave also to declare to his Majesty, our Confidence and Reliance on his Royal Wisdom, and steady Attention to the Honour of his Crown, and the Welfare of his Kingdoms; and that in the Treaty to be concluded in pursuance of this Convention, proper Provisions would be made for Redress of the Grievances so justly complained of; and particularly, that the Freedom of Navigation in the *American* Seas, to which his Majesty's Subjects are entitled by the Law of Nations, and by Virtue of the Treaties subsisting between the two Crowns, would be so effectually secured, that they might enjoy, unmolested, their undoubted Right of Navigating, and carrying on Trade and Commerce from one Part of his Majesty's Dominions to any other Part thereof, without being liable to be stopp'd, visited, or searched, on the open Seas, or to any other Violation or Infraction of the said Treaties; the mutual Observance thereof, and a just Regard to the Privileges belonging to each other, being the only Means of maintaining a good Correspondence, and lasting Friendship between the two Nations: And to desire Permission at the same time, in the most dutiful manner, to express our firm Dependence, that, in the Treaty to be concluded in pursuance of the said Convention, the utmost Regard will be had to the Rights belonging to his Majesty's Crown and Subjects, in adjusting and settling the Limits of his Majesty's Dominions in *America*; and to give his Majesty the strongest Assurances, that in case his just Expectation should not be answered,

answered, this House will heartily and zealously concur in *Ann. 12 Geo. II.* all such Measures, as shall be necessary to vindicate his Majesty's Honour, and to preserve to his Subjects the full Enjoyment of all those Rights, to which they are entitled by Debate thereon, Treaty, and the Law of Nations. 2738-9.

The Lord Carteret.

'My Lords, I could have wished this Affair had come under our Deliberation in another Shape. Since I have had the Honour of sitting in this House, I never heard a more complicated Question put to it: And, my Lords, it is a very unpleasant Task to oppose a Motion, when one cannot do it without opposing a Measure that carries, or seems to carry, the Marks of Duty and Gratitude to his Majesty. But, I fear, the Address proposed will be the most dangerous Compliment this House ever made, the most fatal his Majesty ever received. Had the Convention, my Lords, without any Consideration of this Kind, been the Subject of Debate, I should not have had the least Difficulty in expressing my Sentiments. But, as the present Motion is upon an Address to his Majesty, I own, that I am under some Difficulty. However, my Lords, I will endeavour, in what I shall advance upon this Subject, to preserve that entire Respect I ever shall have for my Sovereign; and, at the same time, to deliver myself with Freedom, in regard to the Interests of my Country, which shall always be first in my Thoughts. Lord Carteret.

'The noble Lord, who made the Motion, has endeavoured to demonstrate to your Lordships, the great Advantages arising to this Nation from the Convention; he has examined every Article by itself, and finds it, upon the whole, to be a just and honourable Treaty. My Lords, I shall take the freedom to examine in the same manner, and shall endeavour to shew your Lordships, that it answers neither of the two great Points the Nation has in View, I mean, Reparation for past, and Security against future Injuries. At the same time, my Lords, I shall keep in my Eye the Resolutions which your Lordships came to last Session, which our Ministers ought to have kept close to in all their subsequent Negotiations with *Spain*.

'The noble Lord, towards the beginning of his Speech, with great Accuracy display'd the Advantages accruing to *Great Britain* from a right Understanding with *Spain*; his Lordship has likewise taken Notice of the Disadvantages which the great Distance betwixt *Old* and *New Spain* puts that Government under, by making it impossible for them to know the true State of the Differences that frequently arise betwixt

Ann. 12. Geo. II.
1738-39.

betwixt the Subjects of the two Crowns, so soon as the Impatience of our Merchants requires. This, my Lords, might be a very good Argument in Favour of the *Spaniards*, if the Injuries we so justly complain of were but of Yesterday. But give me leave to say, my Lords, that they are of a very long Standing. The *Spaniards*, slow and phlegmatical as they are, had they been in the least disposed to do us Justice, might have, by this time, made a thorough Enquiry into the Nature of these Complaints, they might have been fully informed in every Particular that either their own Governours, or the Subjects of *England* had to alledge. They have had almost twenty Years, my Lords, for this Enquiry; and if their Dispositions had been so Just, as the noble Lord seems to think they are, it is impossible but that, during that time, they must have found the Means of giving us Satisfaction. But, my Lords, it is plain, upon the Principles they went, we never could have Satisfaction. If a Seizure of one of our Ships was made, we applied to the Court of *Spain* for Redress; we laid our Grievances before their Ministers, and they sent Orders to *America* to their Governours to enquire into the Facts. My Lords, I say, that was not the Method by which we were to have Reparation; as the noble Lord himself observed, it was the Business of their Governours to excuse their own Conduct, by throwing the Blame upon us. Therefore, we can never suppose that they would admit themselves in the Wrong. So that, if the Court of *Spain* was to form their Judgment upon the Representation of their Governours, we were always sure to have it given against us.

‘But, my Lords, tho’ the *Spanish* Governours had really been disinterested, or any way disposed to do our Merchants Justice, yet, as the Facts were stated to them from the Court of *Spain*, the Case would have been the same. For let us suppose, my Lords, that one of our Ships, in sailing from one Part of his Majesty’s Dominions to another, is surprized by the *Spaniards*, they find therein Logwood, Cocoa Nuts, or *Spanish* Coin, accordingly she is carried to a *Spanish* Port, where these Facts being proved, and finding that the Ship was taken within what they ridiculously call their Latitude, she is confiscated. What follows? The Owners apply to the Court of *Spain*, their Solicitations are backed by our Minister there. Perhaps they obtain an Order to the Governour of the Place where their Ship was confiscated, commanding Restitution, provided such and such Facts shall not appear. But what are these Facts, my Lords? They are Facts that may happen to any *English* Ship, navigating these Seas, in the strictest manner prescribed by Treaties. For it is evident, that our Merchants may have Cocoa Nuts and Logwood in their Ships, with-

without being concerned in an illicit Trade ; they may have *Spanish* Coin too, and yet not a Man of the whole Crew have been near their Settlements. The Wood and Nuts are Commodities growing in our own Colonies ; and the Silver is current all over *America*. The *French* and the *Dutch* Colonies have great Plenty of it, and the *English* more. So that, if all our Ships having these Things on Board are liable to Confiscation, not One in Twenty can be safe.

Ann. 12 Geo. II.
1738-9.

As to our Ships coming within a particular Latitude, this is still a more unjust Ground of Confiscation, if possible, than the other. You have heard it plainly proved, my Lords, at the Bar of your House, that no Master of a Vessel navigating in those Seas, can know exactly what Course, he shall hold ; be his Caution ever so great, he may be forced to make the *Spanish* Coasts ; he may be forced to come within Pistol-shot of their Shore, let it be ever so distant from his Intention to carry on any Commerce there. For which Reason, my Lords, if we once admit our sailing near their Coasts to be a just Cause of Capture and Confiscation, there must be an End of all our Commerce in *America*. But as our Seamen are subject to such Difficulties in their Navigation on these Seas, this Claim of the *Spaniards* absolutely destroys the Freedom of Navigation. By the Law of Nations the High Seas are open to all, and it is an Act of Piracy to search or rifle any Ship navigating thereon.

Thus, my Lords, according to this Claim of *Spain*, an Order for Restitution, even in the most unjustifiable Cases of Confiscation, can be of no Service to our Sufferers, when clogged with Provisoes which 'tis impossible for them to remove. But if the noble Lord will give an Instance wherein that Court orders Restitution to be made of any Ship, because taken upon the open Seas ; if he can shew us, that the *Spaniards* ever once acted, in confiscating an *English* Ship, according to the fundamental Maxim of all our Navigation in these Seas, namely, *No Search but in Port* ; then I shall agree with his Lordship, That it may be rather owing to certain accidental Causes, that the Differences betwixt our Court and that of *Spain* has so long subsisted, than to any exclusive Right which the *Spaniards* pretend to on these Seas.

The noble Lord, indeed, very rightly observ'd, that a great many Circumstances concurred to create frequent Differences betwixt the *British* and *Spanish* Subjects in *America* ; such as the Contiguity of the Dominions of the two Crowns, and the different Genius of the People ; but, my Lords, there is no other Way of removing these Obstacles, but by preventing all Disputes about Property, Navigation, and Commerce, by strictly adhering to the Maxim, *No Search*. If

Ann. 12 Geo. II. we do not adhere to it, my Lords, if we admit of the Claims of *Spain*, in the smallest Degree, we must have eternal Jars and Differences with them; they will always find Pretences to obstruct and ruin our Commerce.

1738-9.

• Having spoken in general to this Point, it may be now proper to take notice of what fell from the noble Lord, in the particular Observations he made upon every Article of this Treaty. His Lordship remarked, that the *Spaniards* have shewn, by the Preamble, a sincere Desire to yield to our just Demands. My Lords, I can't perceive wherein this Sincerity consists. If they were so very sincere, why did they not give us an ample Security for our Navigation, in the Terms contain'd in your Lordships first Resolution upon this Head, which you came to last Session? We there see that our just and undoubted Rights are founded on the express Words of Treaties. What Necessity, therefore, of appointing Plenipotentiaries to decide Differences? I am sorry, my Lords, to see that Word at all made use of upon this Occasion; it implies a Doubt, and that something might be said on one Side as well as on t'other. This, my Lords, is a Concession which we ought to be very cautious in making, or even seeming to make: If any Differences were to be referred to a future Discussion, it ought to have been those relating to the Limits and Boundaries of the two Nations. This might have been decided by Commissioners meeting on the Spot, or by explaining the Words of Treaties relating thereto. But we ought not to have admitted our just and undoubted Rights to Navigation to be put on the same Foot with a disputed Boundary.

• The noble Lord lays a good deal of Stress on the Care of our Ministry in procuring a definitive Satisfaction for past Losses. My Lords, if I could be sensible that they had effected even this Point, I should be very willing to join with the noble Lord in his Encomiums upon our Administration. But, even by the noble Lord's own Account of it, it is but a very sorry Satisfaction. The Demands of our Merchants amounted to 247,000*l.* they uncontrovertably proved, not only before the Commissaries in *Spain*, but at the Bar of both Houses of Parliament, that they were Sufferers to that amount, and consequently that they had a Right to that Sum without any Deduction. But a Deduction is made of 47,000*l.* For what Reason, my Lords? For none that ever I heard, but because the *Spaniards* would have it so. Not contented with this, 45,000*l.* more must be deducted for prompt Payment. Prompt Payment of what? Of a Debt contracted by Rapine and Plunder. I have heard, indeed, when a Debt was contracted by the mutual Consent of the Parties, and payable

payable at a certain Term, that one of the Parties has made Ann. 12 Geo. III.
 a Deduction of a proportionate Sum of the whole for prompt 1738-9.
 Payment. But, my Lords, was this the Case betwixt the
Spaniards and us? Were we obliged to accept of Payment
 in what Manner, and at what Term, his Catholic Majesty
 thought fit? Were our Merchants reduced to such a Pass for
 want of ready Money, that they were glad to deduct near
 a Fourth of their Sum for prompt Payment? But, my Lords,
 it can't even be called prompt Payment; for we find, by the
 first separate Article of the Convention, that his Catholic
 Majesty is not obliged to pay it till four Months after the
 Exchange of the Ratifications. Now, my Lords, let me
 suppose a Case that is very possible: Your Lordships see, by
 the first Article of the Convention, that the Plenipotentiaries
 are to meet at *Madrid*, within forty Days after the Exchange
 of the Ratifications. It is possible they may not agree, the
 Conferences may be broke up the first sitting; then all Ne-
 gotiation is at an end, and the Sword alone must decide it.
 Will the *Spanish* Court, in this Case, think itself obliged to
 pay that Money? Does their Behaviour in Times past give
 us room to imagine that they will look upon this Debt as
 binding upon them, when all other Conditions betwixt them
 and us are broke through? So that, though the noble Lord
 has been pleased to represent this Stipulation in favour of our
 Merchants as definitive, yet when we look into the whole of
 this Transaction, it is, in reality, eventual, and depends on
 the Issue of the future Conferences.

There are one or two Circumstances more, that I must
 observe, with regard to the boasted Satisfaction. I find, that
 though the Sum allowed to our Merchants is 155,000 *l.* yet
 95,000 *l.* only is to come out of his Catholic Majesty's
 Pockets. How comes this? Says the noble Lord, we allow
 60,000 *l.* as a Balance due to the *Spaniards*, in considera-
 tion of their Losses sustained by the Sea Fight off *Passaro*,
 which we had engaged by Treaty to make good to them.
 But in what Manner were we to make them good? We a-
 greed that they should have all the Ships then taken restored
 to them, with the Guns, Sails, Equipage, in the Condition
 they were then in, or if sold, they were to have the Price
 that was paid by the Purchasers. Whose fault was it, my
 Lords, that this Stipulation was not punctually fulfill'd? Was
 it not owing to the *Spaniards* themselves, who refused to
 accept of those Ships when offered to them? And are we
 to pay 60,000 *l.* for no other Reason but because the *Spa-*
niards must be gratified in every extravagant Demand?

But, my Lords, this is not all; his Catholic Majesty tells
 us farther, that, before he fulfils one Article of this Con-
 vention,

Ann. 12 Geo. II.
1738-9.

tion, our *South-Sea* Company must pay to him 68,000*l.* more which is the same Thing as telling us, that, in Effect, no more than 27,000*l.* is to come out of his Pocket. It is in this Light, my Lords, that I view the Protest given in, by his Catholic Majesty's Minister, to Mr. *Keene*. The paying of this 68,000*l.* is, by that Declaration, made an absolute Condition, without which the Convention cannot so much as exist. Now, my Lords, though I don't say this demand of the Court of *Spain* is founded on Justice, and though I shall allow the Declaration has not that mark of Authenticity with the Convention itself; yet I make no doubt but the *Spaniards* will look upon the *South-Sea* Company's refusing to pay the Money, as a just Reason for their refusing to fulfil any one Article of the Convention. I say, my Lords, they will pretend that this Refusal gives them such a Right; and though I am far from admitting that Right, yet if they stick by that Pretence, it is the same Thing in effect to our Merchants, as if they had such a Right, and this Nation must be left to the Ignominy of submitting to treat anew. Thus, my Lords, I think it appears, that the Stipulation in favour of our Merchants, is so far from being definitive, that it depends upon two very uncertain, nay improbable Events; a right Understanding betwixt the Plenipotentiaries, and the *South-Sea* Company's agreeing to pay 68,000*l.*

'The noble Lord was pleased to consider this Stipulation, as it is called, in favour of our Merchants, as a Disavowal, on the Part of *Spain*, of all the unjust Claims and Pretensions she had set up, and paying Damages for the Wrongs she has done us. My Lords, I wish I could prevail with myself to consider this Article in that Light. But it appears to me, that the *Spaniards* are so far from disavowing their unjust Claims, that this Article is a kind of Aggravation of them. We insisted on Satisfaction for the Losses of our Merchants; the *Spaniards* tell us, that they will give us some final Satisfaction, but clog it with such Terms, as they are sure we cannot comply with. This is the same Thing as telling us, that if we will gratify them in one extravagant Demand, they will gratify us in another. Thus, my Lords, they are far from owning themselves to be in the Wrong. But, my Lords, here is another Circumstance to be considered: The King of *Spain* expects that the *South-Sea* Company shall pay him, within a short Time, the 68,000*l.* whereas he does not, by the Convention, oblige himself to pay the 95,000*l.* till four Months after the Ratifications are exchanged. Now, if his Catholic Majesty should think fit to fix this short Time, mentioned in his Declaration, at between two and three Months, he can pay us with our own Money.

Money. Nay, my Lords, if, before the four Months are expired, the Conferences of the Plenipotentiaries should break up, he has then 68,000 *l.* of our own Money in his Pocket, and will very probably, think himself under no Obligation of paying back one Shilling of it in Consideration of our Merchants Losses. The Stipulation, therefore, of the 95,000 *l.* is so much farther from being a definitive Article for the Relief of our Merchants, and an Acknowledgment on the Part of *Spain* for the Wrong done us, that it appears to be only a Bait for drawing us in, to pay 68,000 *l.* upon an unjust and arbitrary Claim.

Agm. 12 Dec. 1738-9.

The noble Lord was pleased to say, that the Ministry had proceeded on the same Foundation with your Lordships, and laboured to effect the same End. My Lords, this will be best seen by comparing your Resolutions in the last Session with the Stipulations in the Convention. Your Lordships resolved, That it was the just and undoubted Right of the Subjects of *Great Britain*, to sail from one part of his Majesty's Dominions to another, without being stopp'd or search'd on any Pretence whatsoever. Is there any Stipulation in the Convention, my Lords, answerable to this Resolution? We there find, that this Right is so far from being acknowledged to be just and undoubted, that it is submitted to the discussion of Plenipotentiaries, who have eight Months allotted them, to consider of the Justice of a Point, which, your Lordships have already found, can admit of no manner of Dispute. But, adds the noble Lord, these Plenipotentiaries are tied down to proceed according to the Treaties subsisting betwixt the two Crowns, which Treaties effectually secure our Navigation and Commerce. My Lords, I can by no means admit of the Inference, which the noble Lord would draw from this, that the *Spaniards* agreeing to proceed according to Treaties, is equivalent to an ample Renunciation of their Claim to stop and search our Ships. If the *Spaniards* had ever, in plain Terms, refused to abide by what is stipulated in these Treaties, I should then readily admit this Article of the Convention to be a sufficient Confirmation of their Validity. But that is not the Case, my Lords; the *Spaniards*, since the beginning of all our Differences, have always expressed a great regard to these Treaties; your Lordships see, by the Papers lying on your Table, that their Minister affects to abide by what is there stipulated, and to plead for no other Right than what is warranted by these Treaties. So that, it is very probable, the *Spaniards* look upon this Article as an Acknowledgment of their Demands. The very Reasons given by the noble Lord, why we should look upon it as an Acknowledgment in our Favour,

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Ann. to Geo. II.

1734-5.



operate equally on their Side. For, if we are to believe that they understand them in the same Sense with us, because we have already explained them, may they not believe that we understand them in the same Sense with them, for the same Reason? Thus, my Lords, the very Argument urged by the noble Lord for our looking upon this Stipulation as equivalent to an express Renunciation on the Part of *Spain*, is, in my humble Opinion, the strongest Reason that could possibly have been urged to the contrary. If as the noble Lord says, we can acquire nothing new by any definitive Treaty, I should be glad to know to what purpose the Nation has been put to such a vast Expence in Armaments, and to what purpose the Negotiations have been protracted so many Years? My Lords, I conceive we have a great deal to obtain, we are to obtain an express Acknowledgment on the Part of *Spain*, that she disclaims all her Pretensions to stop or search our Ships on the open Seas. But this I suppose to have been the Language of our Negotiators at the *Spanish* Court:—Will you consent to the Point of *no Search*? And that their answer was, *We will not*. Should our Ministers then have been satisfied with it? No. They should have said,—*We will proceed no further*:—Then, my Lords, if a Rupture had ensued, the Support of Parliament, and the Voice of the Nation, would have bore them out in all their Proceedings. My Lords, if we had obtain'd a previous Acknowledgment of this nature, I don't know that all the remaining Differences, on that Head, could have been important enough to merit a Place in a definitive Treaty; because no Case could happen, in our *American* Navigation, that could have created the least Dispute. On the other Hand, my Lords, without such an express Acknowledgment, a definitive Treaty, let it be conceiv'd in ever so strong Terms, will be found ineffectual, and we shall have the same Round of Negotiations to begin, and the same Expenses to repeat. The noble Lord made a Supposition, that we can be no Sufferers, even though the *Spaniards* should understand these Treaties in a Sense different from us; nay, that we must be Gainers, since, in the worst Event, it is but going to War. For, says his Lordship, we can then go to War with 95,000*l.* more in the Nation. I have already considered what Probability there is, that the *Spaniards* will ever pay that Sum out of their own Pockets; but give me leave to observe, my Lords, that, though they should pay it, this Nation may soon lose ten times that Sum, since its Subjects have no security for carrying on their Trade in *America*, during the eight Months these Plenipotentiaries are sitting. The very Stipulation, which refers the Security of

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but Trade there, to a future Discussion, admits it to be a doubtful Point ; and as there is no Article in the Convention to bind the *Spaniards* up from continuing their Depredations, are we not to presume that they will look upon themselves at Liberty to continue them till the definitive Treaty is concluded ? Hence, my Lords, there must be a total Interruption of our Trade to our Colonies in *America*, during that Time, or we must carry it on under evident Disadvantages.

Now, my Lords, I shall, as I proposed, take the Liberty to consider how well this Treaty agrees with the Resolutions your Lordships came to on this Head. I have already partly taken notice of the first ; and give me leave to add, my Lords, that if our Negotiators had kept that Resolution in their Eye, as they ought to have done, an Article, or a Concession, founded upon it, must have answered all the Purposes of their Negotiations, with regard to future Security. For if, as that Resolution implies, there can be no such thing as contraband or prohibited Goods in *British* Ships sailing from one Part of his Majesty's Dominions to another, the *Spaniards* cannot have the least Pretext for stopping or searching them, unless they are found actually trading in their Ports.

The next Resolution, my Lords, says, " That *British* Ships have been violently seiz'd and confiscated by the *Spaniards*, upon Pretences altogether unjust and groundless, and that the Sailors on board such Ships have been injuriously and barbarously imprisoned and ill-treated." Now, as your Lordships found this to be a Fact, I should be glad to know what Reasons the Negotiators of this Convention can assign for our not obtaining Satisfaction for these Insults and Barbarities. Is this Nation, my Lords, used to bear such Treatment, without receiving any Satisfaction ? Are we so much reduced, are we so much despised, that we are obliged to confine our Complaints within ourselves ? Are our Merchants and Sailors, the two most valuable Bodies of Men among us, to be thrown out of the Protection of the Kingdom ? And are the Liberties of the Subjects of *Great-Britain* to lie at the Mercy of an insulting Enemy ? In private Cases, my Lords, betwixt Man and Man, Regard is had to Interruption of Business, Costs are given for the Loss of Time, and much more for the Loss of the Liberty or Limbs of the Person injur'd. But, it seems, in a national Case, where the Honour of a whole People is concerned, no Consideration is to be had. My Lords, I am sorry that any such Distinction should obtain amongst a free People ; I am sure, if we long suffer any such Distinction to take place, we shall not be long free. If
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Ann. 22 Geo. II.
1738-9.

the World shall once entertain an Opinion, that our Ministers are so weak that they dare not, or so wicked that they will not, assert the Honour of the Nation, we shall be soon subject to the Insults of every petty State in *Europe*.

‘ Your third Resolution, my Lords, says, ‘ That the frequent Applications made at the Court of *Spain*, on our part, for redressing these notorious Abuses and Grievances, for preventing the like for the future, and for obtaining adequate Satisfaction, have proved entirely fruitless and of no effect.’ It is plain, that your Lordships Intention, in coming to this Resolution, was, that these Applications might be more effectual when back’d by the Concurrence and Authority of Parliament. But does it appear that they have had any Weight? Is there one Stipulation in this Convention that can be call’d satisfactory, either to the Honour of the Nation, to our Merchants, or to our Sailors? Can the best Friend of the Convention pretend, that the Sum stipulated for their Relief is adequate to their Losses? No, my Lords, I think that Point is entirely neglected. So that it must be own’d, that your Resolutions were not design’d to have any Effect on the Measures to be pursued, or that our Ministers have taken Care they should have none.

‘ The second Article of the Convention, my Lords, relates to the Regulation of the Limits of *Florida* and *Carolina*. Every Man in the Nation is sensible how deeply the national Honour is engaged in the Preservation of our Settlement in *Georgia*, which is a Part of *Carolina*; but, it seems, the *Spaniards* claim it as a Part of *Florida*. The Nation has been at immense Charges in settling and supporting that Colony; and should we now give it up, or even suffer our Possession of it to be called in question, all *Europe* must look upon us, either as the most unjust, or most weak People under the Sun. Our Injustice must appear, by our disposing of, in Property to others, a doubtful Territory; and our Weakness must appear, in suffering any Part of the Property of this Nation, or its Subjects, to be determin’d by the Event of any Negotiation whatsoever. The Provision made by the latter part of this Article, that the Fortifications shall not be encreased, but remain in the Situation they are in at present, to me, bears a very unpromising Aspect. To me it appears, that we are somewhat worse than doubtful of our Right to that Colony; that there is a Design to give up its Inhabitants to the Mercy of *Spain*, if our wise Plenipotentiaries should, by their full Powers, think fit to declare the Possession of this Tract to that Crown. My Lords, the People of *Georgia* transported themselves thither upon the Faith of Parliament, and they have been at great Expences, Labour and

and Industry, to make a Settlement there. It will be, there-
 fore, no wonder, should they be obliged to abandon it, if
 they think themselves very hardly, very unjustly treated.
 But how hard, how unjust, should they see themselves aban-
 doned to the Mercy of their Enemies, through the Weakness
 of our Negotiators! In such Case, my Lords, I cannot con-
 ceive how any Subject of this Crown, whose Property lies
 in *America*, can think himself secure of enjoying it. For,
 my Lords, I will venture to say, that our Right to *Georgia*,
 is as clear and undoubted as our Right to any Part of *Ame-*
rica; but though we have had a long and an uninterrupted
 Possession of that Territory, it is now disputed by the *Span-*
iards. The late King *Charles II.* made a Grant of it to
 certain Proprietors, whose Property the Parliament bought
 out ten Years ago, at a considerable Expence. The Legis-
 lature has granted large Sums to support this infant Colony;
 and the *Spaniards*, so far as appears to the World, never
 questioned our Right of Possession, till the Inhabitants had
 made a great Progress in clearing the Ground, and erecting
 Houses. My Lords, I do not positively affirm that our Ple-
 nipotentiaries will give up this Settlement, but, I think, it is
 ignominious to this Nation, to suffer so much as her Right
 of Possession to be questioned. It is a Prostitution of the
 public Faith, and giving our Plenipotentiaries a Power, which
 no Plenipotentiaries of this Crown ever had before, to dis-
 pose of the Property of the Nation, without obtaining the
 least Equivalent

But, my Lords, setting aside these Considerations, I
 cannot account for some late Measures, if our Right to
Georgia is in the least questionable. Though the Pretensions
 of the *Spaniards* to this Colony are but of a very late Date,
 yet they are older than the Regiment we have raised for its
 Defence. And, my Lords, if we were not resolved, at all
 Events, to keep Possession of it, why was the Nation put to
 the Expence of raising this Regiment, and of 10,000 *l.* for
 a Train of Artillery, and other Stores and Necessaries? If,
 on the other hand, it is intended that these Forces should do
 their Duty, in case of an Attack from the *Spaniards*, and to
 support our Right by Arms, where is the Consistency of
 submitting this Right to the Decision of Plenipotentiaries?
 Why was the Nation put to so great an Expence, since it
 must be all lost, if our Plenipotentiaries should yield up this
 Point? However, my Lords, by this Article we expose his
 Majesty's Forces to the Mercy of their Enemies: Or should
 the Plenipotentiaries abruptly break off their Conferences,
 immediate War must unavoidably follow. What a Condition
 then must all the Subjects of *Great-Britain* in these Parts be in!

Ann. 12 Geo. II.
 1738-9.

Ann. 13 Geo. II.

1738-9.

By this Article they are disabled from taking the necessary Precautions to defend themselves. We have no Fortifications there at this Time, that can be of any Service, or afford any Protection to our Troops, in case of a Rupture. And the *Spaniards* have a Fort in the Neighbourhood, from whence they can annoy us, and are not above three Days Sail from the *Havanna*, from whence they can be supplied with Troops and Provisions.

‘ The noble Lord supposed the Differences betwixt us and the *Spaniards* to be only about some Encroachments made by our Subjects upon the Frontier of *Spain*. But, my Lords, I believe it will be found upon Examination, that their Pretensions are to the whole Settlement, and that they dispute our Right, even to *Carolina*. And, my Lords, I don’t see why they might not as well have claim’d *Jamaica* itself; since, if one Reason for surrendering up *Carolina* or *Georgia* can be given, I will engage to give two for our surrendering up *Jamaica*. For the first we hold by virtue of prior Possession, which is all the Right the *Spaniards* have to every Foot of Land they possess in *America*; and this was not only never before disputed, but is confirm’d by Treaty. Now, my Lords, our Right to *Jamaica* is indeed no better than a Right of Conquest; and the *Spaniards* have not yet been prevail’d with to renounce it. As it therefore was conquer’d from them in Time of Usurpation, I should have been less surpriz’d, if by this Convention our Negotiators had consented that all the Inhabitants and Forts of that Island should be disarm’d, till such time as they could determine which Crown should enjoy it.

‘ What I have already said, my Lords, comprehends in a great measure, my Objections to the third Article of this Convention. I shall only add, that I cannot see by what Authority any Commissary whatsoever could take upon him to dispose of the Property of private Subjects. I don’t know that our Constitution vests our Minister with any such Powers. An *Englishman* has a good Action against the greatest Minister, in whatever Capacity he acts, nay against the King himself, if he apprehends that his private Property is invaded. But here, my Lords, it is invaded and disposed of in favour of a foreign Power, a Power which has shamefully wrong’d them, and yet they are to have no Relief.

‘ It has been much insisted on, my Lords, that this Satisfaction to our Merchants is a tacit Acknowledgment on the Part of *Spain*, that she has been in the Wrong. But, my Lords, if *Spain* acknowledges herself to be in the Wrong, can any Man shew me a Reason why we should give *Spain* 89,000*l.* upon no other Account than because *she was in the Wrong*?

Wrong? If our Negotiators, my Lords, have a Mind to be thus excessively generous, I hope they will pay the Deductions they made out of their own Pockets; I am sure, if they do not, our Merchants have very just Grounds to call them to an Account. But, my Lords, there is a great Difference betwixt a Stipulation to pay Money, and the actual Payment of it. Notwithstanding what was said by the noble Lord about the Difficulties of our being paid in any other Manner than that specified by this Convention, I cannot but be of Opinion, that if his Catholic Majesty had been sincerely disposed to pay this Money, he might have easily commanded such a Sum as 95,000 *l.*

Ann. 12 Geo. II.

1738-9.

• However, there is something very inconsistent in the Allowance made for the *Spanish* Fleet destroy'd in the Naval Action twenty Years ago. If we had ever disown'd the Justice of our attacking them at that Time, if we had ever called any of our Officers or Ministers to an Account for what happen'd, it would have been just in us to have given them Satisfaction for the Loss they then sustain'd. But, so far from that, my Lords, the Action was applauded by every Power abroad, it was approv'd of by our Government at Home, and the Admiral, who conducted the Expedition, was, for his good Service then perform'd, created a Lord, by a wife and discerning Prince: So that, my Lords, from this Stipulation, it may be truly said of our Government, that it approves at Home, what it dare not justify Abroad.

• The Importance of the fourth Article, my Lords, has been greatly magnified, even so far, as to shew that his Catholic Majesty reposes entire Confidence in our Court, since he thereby agrees to pay by his Governors in *New Spain* a Sum that, for aught he knows, may have been paid abroad. But this, my Lords, can never pass with any Man, who observes in what Manner things are manag'd betwixt the Court of *Spain*, and the Governors of their Settlements in *America*. The Court knows very well that these Governors are neither obliged nor willing to make any such Payment. And, even though the Value of these Ships were actually paid, I do not see how the *Spanish* Court can be said to repose any Confidence in his Majesty, or the Ministry here. For, my Lords, as the whole Sum of 95,000 *l.* is not payable till four Months after the Ratification, the *Spanish* Court had sufficient Time, betwixt the signing this Convention and the Term of Payment, to inform themselves whether this Money had been paid or not. If it has been paid, they have only to acquaint their Minister here, and he will, no doubt, take Care to discount it out of the whole Sum; so that, I think, my Lords,

1738-9.

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they

Ann. 12 Geo. II. they have taken Care that we should not over-reach them in this Article.

1738-9.

‘ I have but two more Facts to trouble your Lordships with ; but they are of such a Nature, as to serve clearly to inform us in what Manner the *Spaniards* intend to fulfil this Convention, and in what Sense they understand the Treaties now subsisting betwixt us and them. The first Fact is upon the Face of the Convention itself. The second separate Article, my Lords, stipulates, that the Owners of the Ship the *Success* shall give Security to the *Spanish* Minister at *London*, to abide by what shall be determined by the Plenipotentiaries with regard to that Ship. And, my Lords, by the same Article it is owned, that that Ship was taken as she was coming from the Island of *Antigua*. Thus, my Lords, we see in express Terms, that it is admitted by our Ministers to be a doubtful Case, whether or not a Ship sailing from one of our own Islands, not so much as pretended to be near one of the *Spanish* Colonies, may be a lawful Prize. After this unforced, genuine Import of this Article, what becomes of all the Concessions made to us, on the Part of *Spain*, by this Convention ? If the Merchants of this Nation shall find, that a Ship sailing from one of our own Colonies, under *English* Colours, and navigated by *Englishmen*, is confiscable by the *Spaniards*, or, at least, that it is doubtful if she is confiscable or not, who amongst them can be supposed so foolish, as to hazard one Shilling of their Effects on board a Ship in these Seas, where their Enemies can act with such Injustice and Impunity ? I know, my Lords, it has been said, that this Reference to the Plenipotentiaries is only with regard to the Value which is to be paid for the Ship. in case she is not specifically restor'd ; but, by the Words of the Article itself, it is quite otherwise. For this Ship was taken on the 14th Day of *April*, in the 11th Year of his present Majesty, and the Determination of all Cases of Capture, that have happened since *December* last, is referred to these Plenipotentiaries to be determined according to Treaties. So that, my Lords, this Article says, in effect, that it being doubtful by Treaties how far an *English* Ship, sailing from an *English* Colony to *Great-Britain*, is liable to be seized and confiscated by the *Spaniards*, therefore the Sense of these Treaties must be determined by two *Spanish* and two *British* Plenipotentiaries.

‘ The next Fact, my Lords, I am to mention, is a Fact which your Lordships heard at the Bar of this House, from the Person who was principally concerned. It is the Case of Capt. *Vaughan*, who was taken by the *Spaniards*, his Ship confiscated, and himself imprisoned at *Cadix*, where he was detained for several Weeks after the Convention was signed.

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My Lords, this was a plain Explanation on the part of *Spain*, Ann. 12 Geo. 2^d that her Ministers understood the Treaties named in this Convention, in a Sense quite different from that of this House; and that she still expects, nay, is resolved, to exercise, not only her Claim of stopping, searching, and confiscating our Ships, but the Right which she has usurped of imprisoning and maltreating the Subjects of this Nation. This, my Lords, our Ministers themselves cannot but be sensible of, since it appears, that our Plenipotentiary at that Court used his utmost Endeavours to obtain the Captain's Release, but all in vain, till they had satisfied their Malice. Our Minister, my Lords, presented Memorial after Memorial; but that Captain's Letters plainly and honestly tell us, it is not Memorials that will heal his Wounds. My Lords, the manly Expressions in those Letters, that Language of Liberty in a State of Confinement, touch'd me to the Quick. And this Fact, my Lords, must give us sufficiently to understand, that the *Spaniards* will think themselves under no manner of Obligation, from the Convention, to discontinue their Depredations and Barbarities. For if, as the noble Lord insisted, this Treaty is a Disavowal of their unjust Claims, why did they continue the Exercise of them, in the Person of this Man, after that Disavowal was made?

‘ Having said thus much, my Lords, with regard to the Convention itself, I shall trouble your Lordships with a very few Words on the Subject of the Address moved for. Addresses from the Parliament to the Crown have always been, or ought at least to have been, looked upon as the best Informations which the Prince can receive, not only of the Interest, but the Sense of the Nation. And, my Lords, if we agree to this Address, I am afraid we shall act contrary both to the Duty we owe to his Majesty, and that Regard we ought to have to the People: We shall mislead his Majesty into a Belief that this Convention is for the Interest of the Nation; and we shall wrong the Subjects, by misrepresenting their Sense. I believe, my Lords, the greatest Friend that our Minister has, will not affirm that the Nation is not thoroughly and universally dissatisfied with this Measure. I am far from being against our expressing the warmest Sentiments of Duty and Affection to his Majesty. I know his paternal Regard for every Thing that concerns his Subjects, and that he is as ready to redress their Grievances, as they are to lay them before him. We have repeated Assurances, from his own Mouth, that he is sensibly concerned for the Hardships they suffer by the Injustice of the *Spaniards*. And, my Lords, if we should, by an ill-timed Address, tell him that they are removed by this Convention, we thereby pay a Compliment

Ann. 74 Geo. II. to the Throne, that may be fatal both to ourselves and to
 1738-9. Posterity.

‘ I think, my Lords, I have made it appear that this Convention is destructive and dishonourable to this Kingdom, and so far from healing the yet bleeding Wounds which our Commerce has received, that it lays it open to greater Injuncts, and exposes the Persons of our Sailors to, if possible, still greater Barbarities. Can we congratulate the Crown for bringing the Demands of its Subjects to a final Adjustment, when the Sum stipulated for their Relief amounts not to the Value of the Fourth Part of what they have lost ? When the Payment too of that poor Pittance is precarious ? Can we say that a Foundation is laid for accomplishing the great and desirable Ends of obtaining future Security, and preserving the Peace between the two Nations, when it is evident, beyond all Contradiction, that future Security is so far from being obtain’d, or a Foundation for it laid, that no other Foundation is laid, but for a Claim absolutely and irretrievably to ruin all our Colonies, all our Interests, all our Commerce in these Parts ? This may indeed be said to preserve Peace betwixt the two Nations, because it will disable us from ever being in a Condition to make War.

‘ In short, my Lords, our All may be said now to be at Stake. Upon your Lordships Behaviour To-day depends the Fate of the *British* Nation. I don’t often speak in the learned Languages : But I am afraid, my Lords, the prophetic Phrase, which I once heard a most learned Lord pronounce, *Venit summa Dies*, will now be verified. This Nation has, my Lords, hitherto maintained her Independancy, by maintaining her Commerce ; but if either is weakened, the other must fail. It is by her Commerce, my Lords, that she has been hitherto enabled to stand her Ground against all the open and secret Attacks of the Enemies to her Religion, Liberties, and Constitution. It is from Commerce, my Lords, that I behold your Lordships within these Walls, a free, an independant Assembly ; but should any Considerations influence your Lordships to give so fatal a Wound to the Interest and Honour of this Nation, as your agreeing to this Address, it is the last Time I shall have occasion to trouble this House. For, my Lords, if we are to meet only to give a Sanction to Measures that overthrow all our Rights, I should look upon it as a Misfortune for me to be either Accessary or Witness to such a Compliance. I will not only repeat what the Merchants told your Lordships, *That their Trade is ruined* : I will go farther, I will say, The Nobility is ruined, the whole Nation is undone. For I can call this Treaty nothing else but a Mortgage of your Honour, a Sur-
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reader of your Liberties. I therefore hope that your Lordships will assume that Character which dignifies this House: That you will be the impartial, the uninfluenced Advisers of his Majesty on this great and decisive Affair. And that, if you present any Address on this Occasion, it may be such as will speak the Sentiments of every disinterested Man in the Kingdom, and a Firmness not to be shaken by any Confederacy whatever. But, my Lords, what Reason is there to fear that *France*, or any other Nation, will abet *Spain* in her unwarrantable Claim of Dominion in the *American Sea*, or her unreasonable Interruption of Commerce? It is Commerce, my Lords, which enriches *France*; it is Commerce, which supports the *French*; from that Fountain flow all their Wealth, Strength and Glory. Can we therefore imagine that any Nation, whose Interests have so close a Dependence upon a free and uninterrupted Navigation, will enter into any Measures, in Conjunction with *Spain*, to oppose those Rights of another People, which would so nearly, so sensibly affect themselves? Upon these and many other Considerations, which I have no Occasion to trouble your Lordships with the Repetition of, I will pay the last Duty to my Country, and put my Negative upon this Question.'

1758-9.

The Bishop of Salisbury.

' My Lords, It may seem a very bold Undertaking, after what has fallen from the noble Lord who was last up, to attempt to speak in favour of the Convention. The noble Lord, who has improved his great natural Talents by long Experience and Observation, has given so many Reasons, and with such Strength, against this Measure, that nothing but an entire Conviction of its being for the Honour and Interest of this Nation, could have induced me to trouble your Lordships with any Thing by way of Reply to what his Lordship has advanced. But, my Lords, when I consider, that there is no Mind so disinterested, no Judgment so sound, as not, on certain Occasions, to be susceptible of Prejudices, and a wrong Bias, I think it my Duty to lay before you my Reasons why I approve of this Address. And this I am inclined the rather to do, because the noble Lord has not, to my Apprehension, spoke to what confessedly ought to be the Foundation of all Treaties, I mean the Justice and Equity of the Thing, abstracted from all other Considerations. If, my Lords, I shall make it appear to your Lordships Satisfaction, that this Convention is not only founded on both, but is agreeable to the truest Maxims of Policy, I know the noble Lord's

Ann. 12 Geo. II.
1738-9.

Lord's Candour is such, that he will readily agree to this Motion. On the other hand, my Lords, if any Lord shall answer what I have to say to the Satisfaction of this House, if it shall be evinc'd, that this Convention deserves all the hard Names the noble Lord has bestowed on it, I shall be very ready to own my self under the Power of Prejudice, and to agree to any Censure your Lordships shall think fit to pass upon it.

But, my Lords, before I enter into the Merits of the Convention it self, give me leave to say somewhat with Regard to what is properly the Subject of this Debate. And first, my Lords, I must observe, that there cannot be any Danger, as the noble Lord apprehends, in approving of this Address, even though we should disapprove of the Convention. For, what do your Lordships say in the Address? You thank his Majesty for laying this Convention before this House. My Lords, this has been the Language of this House, ever since it was a House, as often as the Crown has thought fit to communicate to it any Treaty, or any Act of the Prerogative: Therefore, I am sure, no Exception can be taken at this Clause. We next express our just Sense of the Royal Care in bringing the Demands of the *British* Subjects to a final Judgment, and procuring an express Stipulation for a speedy Payment. My Lords, I believe no Body pretends to deny this has been done, and I believe it will be as little disputed, that this is the proper Issue to which the Demands of our Merchants ought to have been brought. We then thank his Majesty for laying a Foundation for accomplishing the great and desirable End of obtaining future Security: And, my Lords, notwithstanding all that the noble Lord, who spoke last, has advanced on this Head, I don't think he has said one Word, which can prove that this Convention has not laid such a Foundation. The Convention plainly stipulates, that the Treaties now in force betwixt the two Crowns, shall serve as a Direction for the Plenipotentiaries. If these Treaties are not a Direction, my Lords, I should be glad to know by what other Rule our Plenipotentiaries could act, or what better Foundation could be laid. I am sure your Lordships, upon them, built the Resolutions you came to upon this Subject, and we never yet heard of any other Security we could claim for our Rights of Navigation and Commerce, but Treaties. Therefore, my Lords, I think there can be no Matter of Objection to our agreeing to this Part of the Address.

But, my Lords, the next Paragraph, in my Opinion, contains a full Answer to all that has fallen from the noble Lord who spoke last, with regard to our future Security.

His

His Lordship insisted, that, in this Convention, your Rights Ann. 12 Geo. II. of Navigation ought to have been expressly secured against all Violation in time to come. My Lords, let us see how

1738-9.

that Matter stands. The *Spaniards* and we have Differences ; we fit out a Fleet to give Strength to our Negotiations ; and they offer to treat. But our Differences are so many, and the Cases so intricate, that the definitive Stroke must be a Work of Time. However, they soon agree to a Preliminary, in which they acknowledge the Validity of those Treaties, by Virtue of which we claim our Right not to be interrupted in our Commerce. This, my Lords, is the plain and undeniable Fact. But what follows ? The Preliminary comes to be considered in this House, and the noble Lord objects to it, because it is not a definitive Treaty. No, my Lords ; but it ties the Ministry down from making any Treaty in Consequence of this Preliminary, but such a Treaty as must effectually secure you against all the Encroachments you have hitherto complained of. You tell his Majesty's Ministers, by this Address, that you are not to be satisfied with any Treaty, in which *proper Provision shall not be made for Redress of the Grievances so justly complained of, and particularly that the Freedom of Navigation and Commerce in the American Seas may be effectually secured to his British Subjects, that they may enjoy unmolested*, pray mark, my Lords, *their undoubted Right of navigating and carrying on Trade and Commerce, from one Part of his Majesty's Dominions to another, without being liable to be stopped, visited or searched on the open Seas, or any other Violation or Infractions of the said Treaties.*

Can Words be stronger than these, my Lords, to signify your Lordships Zeal for having the Rights of this Nation put out of all question, and beyond all Violation ? They contain almost the very Words of your Lordships Resolutions, and the very thing which the noble Lord, who spoke last, has been pleading for : So that the noble Lord's Arguments could not be against our agreeing to this Address, but against our Ministry, who have not performed Impossibilities in making a definitive, instead of a preliminary, Treaty, and in not working Miracles, by changing the natural Phlegm of the People, they were to treat with, into all the Vivacity and Dispatch which the Impatience of our People at Home requires. There is no-body, I am sure, knows better than the noble Lord does, that, if you treat with a People, you are to treat with them according to their predominant Genius and Disposition ; you are to yield to their Humours, that you may thereby gain a great deal to your own Interest. And it is well known, my Lords, that the *Spaniards* are a People who will give up a Point of Interest, before

1738-9.

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Ann. 12 Geo. II.
1738-9.

they will give up a Point of Form. Therefore, as you preferred Peace, if it could be had upon reasonable Terms, and as every thinking Man in the Kingdom was, I believe, sensible that a War with *Spain* was to be avoided, if we could do it consistently with our Honour; I don't think that our Ministry could have answered to this House, and to the Nation, if they had acted any otherwise than they have done.

Having said thus much with regard to the Address, I come now, my Lords, to speak to what I propos'd, the Nature of the Rights for which we contend, as founded on Reason. My Lords, I am very sensible that the *Spaniards* have been guilty of gross Violations of Treaties, and, give me leave to say, that by this Convention they appear to be sensible of it themselves. Therefore, by what I have to say upon this Head, I don't in the least intend to justify them in their Violencies. Nor, my Lords, do I intend in the least to weaken our Right to an uninterrupted Exercise of our Trade and Navigation on the *American* Seas. I hope, my Lords, that our Ministry will obtain as full an Acknowledgment of them all, as the best Friend of this Nation wishes. All my Intention is to prevent, as much as any thing I can say can prevent it, the Mistakes which may otherwise arise about the Search and Visit, from which we plead an Exemption; and the rather, because the noble Lord, in what he said formerly, and on this Occasion, has, I think, pleaded for an Exemption which we cannot claim, either by Treaties, by the Law of Nations, or by the Practice of Nations.

By the first general Treaty, my Lords, which we have with *Spain*, it is stipulated, That when a Ship of War belonging to the one Nation shall meet with a Trading Vessel belonging to the other, that Ship of War may visit such a Vessel, and if Prohibited Goods are found on Board, they are confiscable. This Treaty, my Lords, extends to the mutual Possessions of both Crowns in *America*, as well as in *Europe*; and there being no Restriction to prevent this Visit taking Place in *America*, as well as in *Europe*, it was plainly the Intention of the Contracting Powers, that no such Exemption should be pleaded by either, as the noble Lord contends for. The next Treaty was made three Years, or I believe, not above two Years, after, and was restricted to *America* alone. And, my Lords, this last Treaty confirms, in the very first Article, all the Stipulations of the preceding one, which it expressly mentions. The mutual Prohibition of Trade is, by the eighth Article of this Treaty, repeated, though not more effectually stipulated, than it was by the preceding one; but this only proves, that the Contracting Powers look'd upon that Prohibition, as the great Basis

Basis upon which all their Negotiations were to be founded : Ann. 12 Geo. II.

1738-9

For we find, that the Treaty of *Utrecht* mentions the sole Possession of the *Spanish Indies* remaining to that Crown, as the principal Consideration which was to be regarded. But, my Lords, what does this prove ? Does it prove, as the noble Lord contends for, that our Ships can only be visited in their Ports and Harbours ? My Lords, give me leave to say, that if Treaties are writted in this manner, there is not a Treaty subsisting betwixt us and any Power in *Europe*, which may not be construed to Purposes that destroy the very End for which it was made. By all the Treaties in force betwixt us and the *Spaniards*, the Advantages arising from the Trade with their Settlements in *America* are reserv'd to them ; this is undeniable ; but, according to the noble Lord, these very Treaties admit of a Construction that puts it in our Power to run away with all that Trade, for it seems that a mutual Prohibition of Trade, is the very Thing by which we defeat all the Intention of such a Prohibition, and make the Property of each Crown common to the other. I speak, my Lords, of the Property of *England* as well as of *Spain*, because, as the Prohibition is mutual, the Advantages arising from that Prohibition ought likewise to be mutual. Now, my Lords, give me leave to suggest to your Lordships in what manner we should reason, and how we should behave, if our Share of Property in *America* were larger than that of *Spain*, and if that of *Spain* were no larger than ours is at present. Should we, my Lords, suffer the very Means that are agreed upon as the proper Method of securing that Property, to be the very Means of its being render'd quite useless to us ? Consider, my Lords, how the Case stands at present : We have no Trade, we say, with the *Spanish* Settlements in *America*, therefore there can exist no Object of Search. Therefore, let our Ships be seen hovering about their Coasts for Days, nay Weeks together, they are not to ask any Questions ; as long as we don't go into their Ports and Harbours, they can't seize or search, or so much as visit, provided we keep at Sea, though but a Pistol-shot from their Shores. Would we, my Lords, suffer any People in the World to brave us in that Manner ? Should they but pretend to do it, is there a Man in this Nation who would not exclaim, who would not call loudly out for War to chastise their Injustice, and accuse our Ministry of Cowardice, should they refuse it ? To bring this Case, my Lords, still nearer home to our own : Let us consider in what manner we our selves think fit to treat all the other Nations of *Europe*, whom we suspect to be concern'd in those Practices of which the *Spaniards* now accuse us. It

Ann. 12 Geo. II.

1738-9.

is true, they are obliged to give us the Honour of the Flag, but this is a Right we don't claim by the Law of Nations, but by positive Treaties. But, my Lords, in what manner do we act when our Ships meet with any foreign Vessel that is hovering within two Leagues of our Coast? Why, my Lords, we do the very same thing by them as the *Spaniards* do by us in like Circumstances; we stop them, we examine if they have not been concerned in a clandestine Trade, in a Trade that is, or may be, detrimental to the Revenues of this Nation: And, my Lords, if we find that they have, the prohibited Commodities which they are laden with are seizable and confiscable. By a late Law, my Lords, the Cases liable to such Confiscation are regulated in so strict a manner, that, had the *Spaniards* proceeded against our *American* Ships, in like Circumstances, with the same Severity, we must have heard of a great many more Captures than we have. That Law enacts, that if a Ship shall be found within two Leagues of our Coast, not proceeding on her Voyage with the first Opportunity, and if such Ship shall have on Board six Pound Weight of Tea, or any Spirits in Casks under sixty Gallons each, except the Seamens Allowance, which is two Gallons a Man, such Commodities become lawful Prize.

‘ There is, my Lords, one Circumstance in our Commerce, that, I think, puts us entirely on the same Foot with the *Spaniards* in *America*; and that is, the Case of our Wool Trade. Our Wool we reckon to be a Staple Commodity of this Nation. The Exportation of it, on any Pretence whatsoever, is prohibited under the severest Penalties. The same may be said of our Tin, and our Fullers-earth. And, my Lords, we pretend specifically to know these Commodities wherever they are found. Suppose, my Lords, one of our Ships of War should meet with a *French* Ship laden with our Wool, Tin, and Fullers-earth, sailing from *England*: If these Commodities should be found in such a Ship, and if our Captains should seize them, would the *French* think they had a right to reclaim such Commodities, because they were not taken within the precise Bounds marked out by our Acts of Parliament? A Ship of War, my Lords, has a Right to visit the Trading Ships of another Nation in any Latitude, because they are to take care that no Ship is concerned in any Trade, or in any Voyage, that may be detrimental to the Subjects, or the Revenue of the Crown they serve; nay, my Lords, a Ship of War, when she has a Proof, or even a strong Presumption, that a Trading Vessel of another Nation has any of our prohibited Commodities on Board, has a Right not only to Visit, but to Search such Ships. My
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Lords, the *Spaniards* in their Settlements in *America*, have Adm. 12 Geo. III the very same Regulation with us in this Respect. They have certain Commodities there which may be called Staple, and which, they say, are specifically different from the same Commodities in any other Part of the World. Of this Kind is their Cocoa-nut, their Logwood, and their Silver Coin or Plate. It is true, that we pretend we have Logwood and Cocoa-nuts growing in our Plantations. But then the *Spaniards* tell us, and I believe very justly too, that there is as great a Difference betwixt our Cocoa-nuts and theirs, and our Logwood and theirs, as there is betwixt our Wool and that of any other Nation. Therefore, say they, why will you deprive us of a Right which you yourselves exercise in as extensive a manner as we pretend to? We (continue they) have still a better Right to visit Ships on the *American* Seas, than you have of visiting on the *European*. We pretend only to visit on the Seas that wash our own Coasts; and the Intention of that Visit is only to secure to ourselves those Advantages that are stipulated by Treaty, which you yourselves do not dispute. I know, my Lords, that the *Spaniards* have abused and extended this Claim to unwarrantable Excesses; and, my Lords, if I had reason to think that these Abuses are countenanced by the Court of *Spain*, I should very willingly give my Voice for chastising them in an exemplary Manner. But, my Lords, if we consider that the *Guarda Costa's*, by which these Abuses were committed, are not properly Ships belonging to the Crown of *Spain*; if we consider, that it is impossible for any Crown to prevent Abuses of that kind, and that they in effect disavow them, I think, they ought to have no Influence upon our present Deliberation.

‘ Upon the whole, my Lords, it is evident that there are certain Points of Commerce, and certain Rights, which we cannot deny to *Spain*, without acting with the greatest Inconsistency and Injustice on our Part. We cannot deny, that they have a Right to employ their utmost Endeavours in preventing a clandestine Trade betwixt their own Colonies and any other Nation in the World but themselves: That they have a Right to seize upon and confiscate all Ships that are found carrying on such a Trade, and are sole judges of all Cases betwixt the Captors and the Owners of such a Ship.

‘ We, on the other hand, my Lords, with great Justice, insist on a free Navigation betwixt one part of his Majesty’s Dominions and another. We insist that this Freedom of Navigation be not interrupted by our Ships being stopp’d or search’d on the open Seas; and this is a Right which the *Spaniards* have never yet expressly denied us. So that, my

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Ann. 12 Geo. II.
1738-9.

Lords, when we consider the Matter coolly and without Prejudice, there is no Difference betwixt us about the *general Rights*, which each claims, but about the *particular Manner in which these Rights are exercised*. We tell the *Spaniards*, that though they have a Right to prevent all clandestine Trade in their own Settlements, yet, that they ought not to exercise that Right in such a Manner as to interrupt the Freedom of our Navigation. The *Spaniards*, on their part, tell us, that we are not to abuse that Freedom of Navigation, which they acknowledge we have a Right to, by exercising it in such a Manner as to give our Merchants an Opportunity of Trading with their Colonies. This, my Lords, is the plain State of the Points in Difference betwixt us and *Spain*. Neither disputes the Rights of the other, but each disputes the exercise of these Rights. Therefore, my Lords, all that remains to be done by the Negotiators on both Sides, is, to reconcile the *Exercise* of our Rights of Navigation, to the *Enjoyment* of their Rights, to prevent a clandestine Trade with their Settlements. This, my Lords, is what cannot be done by canvassing the Words of any Treaty, because no Treaties have provided against all Abuses of this kind. It can therefore be done only in the Method proposed by this very Convention, by appointing Plenipotentiaries on each Side, who are to meet and to settle the proper Methods of *regulating*, or, if you will, of removing, all the Grievances subsisting on either Side.

‘ This, my Lords, cannot be done, but by each Side receding a little from the Rigour of its Demands, and by our considering the Intention as well as the Words of Treaties. There is no Treaty, my Lords, can be devised by the Wit of Man, so as to comprehend and provide for all the Cases that may arise from the Abuses of it, if either of the Parties concerned should refuse to submit to a reasonable Explanation of its true Intention and Meaning, and justify their Abuses of it from their not being literally provided against. The Treaty of the 23d of King *Charles II.* whereon we found our Rights to a free Exercise of Navigation, provides, that we may sail from one Part of his Majesty’s Dominions to another; but it does not provide that, in case our Ships shall be found hovering within Gun-shot of the *Spanish* Coasts, the *Spaniards* must not stop and search these Ships, though they have the clearest and most undeniable Proofs of their carrying on an illicit Trade. But, my Lords, because no such Provision is made, would it be reasonable in us to insist upon it, that it is a breach of that Treaty, for them to seize any Ship in such Circumstances? On the other hand, my Lords, should the *Spaniards*, because a Prohibition of Trade with their Colonies is stipulated by that Treaty, under the colour of pre-

preventing an illicit Trade, interrupt our Freedom of Navigation on the open Seas, I think we should be warranted by all Laws Divine and Human, to bring them to a severe Account. But, my Lords, if both Sides, without justifying these Excesses, shall have Recourse to the original Meaning of the Treaty, and take the Pains to examine into the proper Methods of preventing them, as is proposed by this Convention, I am persuaded that each Party will have reason to be satisfied.

Ann. 12 Geo. II.
1738-9.

‘The learned and noble Lord, who spoke last, took great pains to prove that the second Article of this Convention is inconsistent with the Resolutions your Lordships came to, the last Session, on this Head. But, my Lords, if I understood your Lordships Intentions in coming to these Resolutions, you did not intend them as Instructions to his Majesty’s Ministers to justify all the Abuses that may be introduced into that Commerce. You found that a free Navigation in these Seas was the undoubted Right of the Subjects of *Great Britain*; but you did not declare that, if the Subjects of *Great Britain*, in consequence of this Right, should carry on, nay, force a Trade with the *Spanish* Settlements, the Treaties betwixt the two Crowns authorized such a Trade, and that our Minister should immediately declare War, if the *Spaniards* refused to acknowledge such a Trade to be lawful. Unless your Lordships did this, the Convention and your Lordships Resolutions are exactly correspondent to one another, since the Treaties upon which your Resolutions were formed, are therein acknowledged, and laid down as the Ground-Work upon which our Plenipotentiaries are to proceed.

‘My Lords, I should not have ventured upon these unpopular, but certain Truths, did I not know that I speak in an Assembly that has been always eminent for a strict Regard to Justice, whomsoever it may affect. What I have said, my Lords, I am sure, if rightly considered, can never injure any of the Rights of this Nation, far less can it justify any of the unwarrantable Claims or Practices of the *Spaniards*. Let our Rights of Navigation remain inviolate, let the Commerce of this Kingdom extend, and her Interests prosper; but, my Lords, do not let us endeavour to advance these Interests by means that Justice cannot warrant, and prostitute the Faith of this Nation to gratify a mistaken Notion of her Honour. We never can vindicate her Honour so effectually, as by maintaining the Faith of Treaties, by insisting upon nothing that is not strictly warranted by them, and by our Readiness to submit every doubtful Point to a fair and an amicable Discussion. It is no Sign of true Courage, my Lords, for us to tell any People that we know

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Ann. 12 Geo. II
1738-39.

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we are in the Right, and if they won't yield to us, they must fight us. If we consult History, my Lords, we shall find that Success very seldom attends any People, who set themselves up for the Bullies of Mankind. The Reason is plain: All Nations are against such a People, and if the fear of their Power should hinder them a while from acting openly against them, they never fail secretly of taking all Advantages to humble them. The *Romans* themselves, my Lords, though their Power was very great, yet, even when they were in the height of their Glory, never refused to hearken to Reason; and we find them often submitting to treat, where, had they entered into War, they had been sure to conquer. If this Maxim, my Lords, was a good one amongst a People who maintained themselves in their Conquests by Arms, much more ought it to be cherished by us, who subsist by Trade. Trade, my Lords, may be ruined even by a successful War, and recovered by an indifferent Peace. I would not be understood, my Lords, that we are to give up any of our just Rights, or that we are to sue to the *Spaniards* for Peace: No, my Lords, this very Convention is sufficient Proof, that we treat with them on an equal, nay, a superior Footing; and if a definitive Treaty shall be concluded in Consequence of this preliminary one, we may justly say, that we have given Peace, and not received it. As a Proof of this, my Lords, let us consider the Behaviour of the *Spaniards* some time ago, compared with what it is at present: And whoever does this, my Lords, will find that they have yielded up many Points, and those material ones, and we have not given up one.

This, my Lords, has not been attempted to be denied by the noble Lord himself, who spoke last; and I believe every considering Man of this Nation would have blamed the Ministry, had they plunged the Nation into a War without any Necessity. But, my Lords, it has been the Fate of all Ministers, that ever served this Nation, that, let their Measures be ever so just, and their Zeal ever so disinterested, a Party has been always found amongst ourselves, to accuse them of Wickedness or Weakness. They, who are resolved to find Fault, right or wrong, will never want Pretences. I, my Lords, have lived long enough to see Measures quite opposite to one another approved of by the same Party. I have heard the Ministry accused of Rashness by those in the Opposition for entering into a War with *Spain*. I heard them now accused of Pusillanimity for endeavouring to preserve a Peace with her, and I may, perhaps, live long enough yet to see this Convention as universally applauded, as it is now industriously decry'd. They in the Opposition, my Lords, have many Advantages,

Advantages, without Doors, over those in the Ministry. *Ann. 12 Geo. II.*

1733-9.

They have the Happiness of being looked upon by the People as advocates for their Rights. This gives great Weight to all they say or print. They likewise never fail to cover all their Designs with a Word that is dear to every Free-born People, *Liberty*. This, my Lords, gives them a fine Field for Declaration; and there is nothing so absurd, or so ridiculous, that will not beget a popular Prejudice in its Favour, if they have Art enough to colour it with that specious Appearance. For this Reason, my Lords, the Cry without Doors has very little Influence with me, any further than to give me a sensible Pleasure, in reflecting that all our Liberties are safe, since even the Abuse of them passes unpunished. My Lords, there is nothing can be a greater Proof, that the Dangers to which our Liberties are said to be exposed, are groundless, than the very Freedom with which People suggest that we are in any such Danger. If Liberty were in danger, my Lords, no Man durst be so hardy as to tell the World that it is so; and if this Convention were so disgraceful to this Nation, as some pretend, our Ministry would have made a farther Stretch of their Power; they would have rendered it unsafe for any Party to have censured their Conduct with so much Freedom. Former Ministers, my Lords, have acted in this manner; even good Ministers have proceeded to Severities under half the Provocation the present Administration has met with. But, my Lords, we have nothing of that kind to fear now; his Majesty submits the Conduct of his Ministers to your Examination, their Measures must stand or fall, as you approve or censure.

I would not have said so much, my Lords, upon a Subject that has no immediate Relation to this Question, had not the noble Lord, who spoke last, seem'd to think that our agreeing to this Address, an Address of Duty, my Lords, to his Majesty, would give a fatal Blow to the Liberty of this Nation, and render it unnecessary for any Lord, hereafter, to attend the Duties of this House. I shall, therefore, trouble your Lordships no farther, than to add a few Observations on what fell from the noble Lord, on the other Articles of this Convention.

His Lordship thought it extremely unreasonable, that this Convention did not provide an adequate Reparation for all that our Sailors have suffered in their Persons from the *Spaniards*. I should have been extremely glad, my Lords, if such a Reparation could have been obtained; and I believe this House would be obliged to his Lordship, if he would take Pains to point out in what manner such a Satisfaction can be effected. It must first appear, that the Parties who

1738-9.

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Ann. 12 Geo. II.

1738-9.

suffered, applied to the Court of *Spain* for Relief; that they prosecuted the Authors of their Suffering, and prov'd the Facts they alledged, and that the Government of *Spain* had approv'd of their Conduct, and justified their Barbarities; or it must appear, that these Courts were not open to their Relief, and that they were necessitated to apply to the Government here. My Lords, I never heard of any Instance of that kind; and, though there had been any such Instance, I doubt the *Spaniards* are not without Complaints on their Part too, of the Injustice of our Governors. Consider, my Lords, how long it is ago since our People in *Jamaica* used to go and force a Trade with the *Spanish* Settlements; how many Acts of Piracy were committed by our Subjects against the *Spaniards*: Nay, my Lords, these Abuses proceeded so far, that whole Fleets of Pirates, for I can call them no better, avowedly invaded the Property of *Spain* in these Seas; they fish'd for Wrecks, to which no Subject of this Nation could have any Claim; and, notwithstanding express Prohibitions from our Court, committed every act of Hostility. My Lords, it would have been unjust in the Court of *Spain*, to have declared War against us for these Practices, or to have demanded an adequate Satisfaction from our Crown. No Ministry can undertake to deliver up the Persons of such Offenders, because they take Care to keep out of the Way; and it is as difficult to give an adequate Satisfaction, for it is almost impossible to prove the Damages, because, in such Cases, one Party is always sure to represent the Losses greater, and the others less, than they really are. This, my Lords, is exactly the Case betwixt *Spain* and us. We complain very justly of our Losses, and they tell us that they will give us full Satisfaction for those Losses that we make appear; but that it is unreasonable to insist on full Reparation for all the Damages that our Subjects have sustained by theirs; and that too, without any other Proof than the bare Evidence of the Sufferers themselves. This, my Lords, is all that we can in justice exact; and, I believe, is more than ever was granted before in any such Case. Besides, my Lords, if we consider the Thing impartially, we shall find that we have no Reason to complain; for, as the noble Lord who spoke first in this Debate, observ'd, their Demands were much greater than the Sum stipulated for their Satisfaction; and we are not obliged, by this Convention, to pay them the fourth Part. As to the Reasons advanced by the noble Lord, against our making them any Satisfaction at all for the Ships taken in the *Mediterranean*, I think they are such as our Commissaries could not properly judge of, because they were to act by Treaties and positive Stipulations,

and

and to have no Regard to particular Incidents. Now, my Lords, as we are obliged by intermediate Treaty, to give them Satisfaction for these Ships, if they were not actually delivered up, and, as it is evident they never were, our Minister there had nothing to do but to consider how to make the best Bargain he could. But, says the noble Lord, it was owing to the *Spaniards* themselves, that the Ships were not actually delivered to their Commissaries. My Lords, I believe, if the Ships had been worth the Expence of carrying to *Spain*, they would not have refused them. But, my Lords, the Truth of the Matter is, that they were in so bad a Condition, they were so miserably battered, and had been so ill taken care of, when in our Possession, that they were unfit for all Service, and therefore carried out of the Harbour, and sunk in the Sea. My Lords, it is very possible the *Spaniards* thought that we had industriously put them in such a Condition, that they might be disabled from all future Service. Whether this was the Case or not, is of no Importance in the present Question; I shall only take the liberty to say, that 60,000 *l.* is a cheap Price for the Remains of all the naval Power of *Spain*. If the Ships had been in any Condition of being refitted, they might have been soon of greater Detriment to this Nation, than all that Sum. I don't know what the present naval Power of *Spain* is, but be it what it will, it has been all raised since the Action in the *Mediterranean*, for in that Action it was effectually ruin'd.

As to the other Articles of the Convention, my Lords, which the noble Lord has objected to, I will be very free to own to your Lordships, that I have not examin'd them with the same Attention as his Lordship has done; but I think his Lordship's principal Objection was, to our suffering the Case of the Ship's sailing from *Antigua*, to be submitted to the Determination of the Plenipotentiaries. In answer to this, my Lords, I can only say, that if the Case of this Ship be as unexceptionable as his Lordship seems to think it is, the Provision made by the Convention, is sufficient to indemnify the Owners. But, my Lords, it is very hard for us to pronounce, at this distance, what particular Circumstances might have given rise to this Stipulation. For though the *Spaniards* had most certainly no manner of Right to seize any *British* Ship in the Latitude where that Ship was seized, yet, my Lords, if, after the committing this unwarrantable Act, they had full Proofs from what appeared by the Master's Papers, and the Ship's Cargo, that this Ship since she left *England*, had been concerned in an illicit Trade, as nobody here can venture to say she had not, will your Lordships be of Opinion that there did not arise from this, at least, some ground for

Ann. 12 Geo. II.
1738-9.

Ann. 12 Geo. II. a future Discussion? My Lords, I don't assert that this is the Fact but it possibly may, and I think we ought not to form any sudden Judgment of it, till we know the Truth.

1738-9

‘ But whatever may be in this, it is certain that every wise Ministry, my Lords, will give up a few Points of less Importance in order to secure the general Interests; and in a Negotiation of this Nature, many such Points occur: But I believe the Ministry has managed with as much Caution, and with as great Tenderness to the Interests of our Merchants, as any Ministry ever did.

‘ To conclude, my Lords, I think this Address is but a bare Acknowledgment of our Duty and Gratitude to his Majesty; if we agree to the Motion, it will give a Weight to our future Negotiations, and it never can be attended with any bad Consequences, because the future Security of this Nation, the only Thing that now remains to be settled, and the principal Thing that the Nation has all along desired, is expressly provided for in the Words of the Address proposed: So that, my Lords, it is really a Direction, a Caution to the Ministers, that none of our just Rights shall be given up by any subsequent Treaty. But, my Lords, if we should not agree to it, what have we to expect but that the Enemies of the Nation will unite upon our Divisions? They will take Courage, my Lords, from our Animosities: Therefore, my Lords, I am heartily for our agreeing to the Motion.’

The Duke of Argyle

Duke of Argyle.

‘ My Lords, as I neither speak from Pamphlets nor Papers, I cannot precisely tell your Lordships how long I shall trouble you on this Occasion. It is an Affair of as great Importance, I will venture to say, as ever came before this House. I have, my Lords, employed a great deal of Time in endeavouring to form a right Judgment of it. I have examined it without Prejudice, I have endeavoured to find something in it that may be justified, I have viewed it, my Lords, in all the best Lights it was capable of; but still, my Lords the more I consider, the more I view it, the more disgraceful, the more deformed, does this Convention appear.

‘ I have known, my Lords, I have read of Measures of this kind, that were, indeed, generally disliked by the People, and were disadvantageous to the Nation; but still, my Lords, the Ministers who carried on and concluded such Measures, had something to say in their Justification. The Weakness of the Nation, the Conveniency of Trade, the Strength of our Neighbours, or some Consideration of that kind

kind, was always pleaded as an Excuse. And sometimes, Ann. 12 Geo. II.
1738-9.
though a Treaty was in the main disagreeable, or dishonourable to the Nation, yet there were certain particular Clauses, some Advantages stipulated, which, if they did not balance, served at least to excuse the rest. But, my Lords, this Convention is not only disagreeable to every body without Doors; but it does not contain one Article that can be wrested to have so much as a favourable Aspect for this Nation. To what, my Lords, can this be owing? Is it owing to the Weakness of the Nation? Not at all; this Nation is not weak; she has Strength sufficient to crush that Power that crushes her. If she is poor, my Lords, the Government feels none of it; for our Ministers are as largely supplied with Treasure as those Ministers were, under whom this Nation made the Power that now insults us, to tremble. Our Troops, my Lords, are more numerous, better clothed than those Troops were, who once conquer'd this insolent Neighbour, and filled her Throne with a Monarch of our own making. I see many Lords here, who, I am sure, remember these glorious Times; and if, my Lords, at that Time any one had ventured to foretel that this Nation would soon be reduced to the Necessity of negotiating, for the Space of eighteen or twenty Years, to obtain such a Treaty as this is, was there a Man in the whole Nation that would have believed him?

‘ Have our Ministry, my Lords, aught to plead in favour of this Measure, because it is for the Convenience of Trade? My Lords, every body, who understands what Trade is, knows, that if this Convention is approved of by Parliament, our Trade must be irretrievably ruined.

‘ Can it be pleaded, my Lords, that our Enemies are so strong that we ought, in Policy, to yield a little to their Humours? No, our Enemies are weak, they are strong only in our Fears. We, my Lords, are Masters of that Element whereon the Cause must be decided; and let all our Enemies, either professed or secret, nay, let all the neutral Powers in Europe unite their naval Force, we have a Fleet now at Sea that is able to beat them all. But, my Lords, do we behave as if we had any such Superiority? Have we so much as asserted the Honour of the *British* Flag? Have we not tamely given it up, given it up without the least Reason, so far as appears to the World? What the Reasons of our Ministers may be, my Lords, for this Pusillanimity, I am entirely ignorant; and as I am ignorant, I am innocent: For, my Lords, though I am a Privy Counsellor, I am as unacquainted with the Secrets of the Government as any private Gentleman who hears me.

Ann. 12 Geo. II.

1733-4.

‘ I remember, my Lords, a very good Saying of a noble Lord, who once sat in this House, it was the late Lord *Peterborough*: When he was asked by a Friend, one Day, his opinion of a certain Measure; says my Lord, in some Surprise, ‘ This is the first Time I ever heard of it. Impossible (says the other why you are a Privy Counsellor. ‘ So am I (replies his Lordship) and there is a Cabinet Counsellor coming up to us just now; if you ask the same Question of him he’ll perhaps hold his Peace, and then you’ll think he is in the secret; but if he opens once his Mouth about it, you’ll find he knows as little of it as I do’ My Lords, it is not being in Privy Council, or in Cabinet Council, one must be in the Minister’s Council to know the true Motives of our late Proceedings For my own part, my Lords, I can only guess at them, but I have disapproved of them these eighteen Years; I have disapproved of them in Public, in Private, and in all Companies. Therefore my Lords, what I speak upon this occasion, I speak it as a Citizen of the World, and not as a Privy Counsellor. I speak the Language of an honest and unprejudiced Heart, and what I can answer for to my King, my Country, and my God.

‘ So far, my Lords, as I can judge from the Tenour of our late Behaviour, our Dread of *France* has been the Spring of all our weak and ruinous Measures. To this Dread, my Lords, we have sacrificed the most distinguishing Honours of this Nation. This Dread of *France*, my Lords has chang’d every Maxim of right Government among us. There is no Measure for the Advantage of this Nation that has been set on foot for these many Years, to which she has not given a Negative; there is no Measure so much to our detriment, into which she has not led us. Your Lordships may remember, for it happen’d but a few Years ago, that a *French* Ship came into one of our Harbours with all her Sails up, and her Pendants flying; and an *English* Officer, who was but a Lieutenant of one of our Men of War, fir’d at her to make her salute his Majesty’s Ship. Your Lordships, I am sure, have not forgot what was the Consequence: The Lieutenant, for barely doing his Duty, and which if he had not done, he must have been broke, was discharged the Service. It is true, my Lords, he was afterwards preferred, but not before we, in order to gratify that haughty Court had submitted to the Infamy of breaking him.

‘ Here, my Lords, was an Instance wherein *Great-Britain* gave up the Point of which she always has been, and always ought to be the most jealous; I mean the Honour of her *Flag*: And not only so, my Lords, but punished a brave Officer for doing his Duty in our own Harbour. He, my
Lords,

Lords had no discretionary Power, he acted in absence of *Ann. 12 Geo. II.*
 his Captain, he acted by Sea-Rules; and yet these Rules *1738-9.*
 were broken through in order to pacify that Court. Why,
 my Lords, should our Ministers shew so much Complaisance
 to other Nations, and bear so little Affection to their own?

‘ But, my Lords, it is not Punctilio and Form only,
 that we give up to *France*; I am afraid we sacrifice more
 substantial Points to please her. I am afraid my Lords, the
 Convention is a *French* Measure. For I can never be per-
 suaded that our Fear of aught, that can possibly happen to
 us from *Spain*, cou’d induce us to agree to this thing, you
 call a Convention. It is the interest of *France*, that our Na-
 vigation and Commerce should be ruined; we are the only
 People in the World, whom they have reason to be appre-
 hensive of in *America*; and every Advantage that *Spain*
 gains in point of Commerce, is gain’d for her. Therefore,
 my Lords, we are not at all to be surprized, if she takes
 great Pains to bring about a Measure of this Kind. But, my
 Lords, they look’d upon their Work as but half done, when
 this Measure was concluded; it must be ratified too, in order
 to put the Parliament under greater Difficulties in censuring it.
 Accordingly, because it seems the slowness of the *Spaniards*
 cou’d not be brought to sign it time enough to get it ratified
 before the meeting of Parliament, the Session was put off for
 fourteen Days. This brings his Majesty’s Name and Au-
 thority into the Question; for they thought that a great
 many might be dissatisfied with a bad Treaty concluded by
 the Minister, who would put up with it, if confirmed by the
 King. But, my Lords, the Treaty was of the Minister’s
 making, and if Ministers make bad Treaties, they should
 answer for them. Our Law has most excellently established
 it as a Maxim, That the King can do no wrong. The
 reason of this, my Lords, is plain, because the Constitution
 has provided a proper Council, who shall advise with the
 King, as to the executive part of Government: And it is,
 my Lords, always to be supposed that the Persons, who
 compose that Council, are well skilled in the Laws, the
 Constitution, and the Interests of their Country. Therefore,
 my Lords, if any Wrong is done in the Government, it is
 presumed to be done by those who advise the King. It is
 true, the nature of our Constitution requires, that public
 Acts should be issued out in his Majesty’s Name; but, for
 all that, my Lords, he is not the Author of them. There-
 fore the Publication of this Treaty in his Name ought not
 to indemnify the Authors, or to make us swallow what we
 can never digest.

Ann. 12 Geo. II.
1738-9.

The Approbation of this Treaty is brought in by way of an Address of Thanks to the Crown, and is, it seems, no more than a Compliment to his Majesty. A Compliment for what, my Lords? For making this Convention? His Majesty did not make it, the Ministry made it. This Address, therefore, will tell the World that we return Thanks to the Minister for this Convention, which gives up the Security of our Trade, and puts us in the Power of our natural and hereditary Enemies.—Let who will approve of such a Measure, I never will; I'll die first.

' The noble Lords, who have spoken for this Address, appear to have studied the Point. It is no easy matter for one, who speaks occasionally, to answer them. My Lords, I don't trouble myself about little Niceties and Distinctions; about a Right and the Exercise of a Right. For what End do we enjoy a Right, if we cannot exercise it? Do we pretend to hinder the *Spaniards* from searching our Ships, when found in their Ports or Harbours, which is the utmost they can claim by Treaty? My Lords, we don't. Do the *Spaniards* suffer us to exercise that our natural and undoubted Right of sailing unmolested on the open Seas? No my Lords they don't: So that the Question is not about a Right, or the manner in which a Right is exercised, but betwixt an unreasonable Claim, and an undoubted Privilege, betwixt an oppressive Usurpation, and a lawful Title. There is, indeed, another part of the Doctrine preached by the Reverend Prelate, which admits of a very wide Difference, though his Lordship has been pleased entirely to suppress it; and that is, the Difference betwixt a Visit and a Search. Visiting a Ship, my Lords, is, when a Ship of any Force accosts a Trading Ship of another Nation, and sends five or six Persons at most in a Long-Boat, in order to visit her; that is to say, to enquire whence she is come, whether bound, what she has on board, and how long she has been at Sea. To all these the Master must give explicate Answers. And if the Captain of the visiting Ship still doubts, he may call for his Ship's Papers, and Bills of Lading, but has no Right to insist any further. If he does, my Lords, he commits an Act of Piracy. A Search on the other hand, is a rummaging the Cargo with an Intention to confiscate; and this, my Lords, is what no Treaty betwixt *Spain* and us, subjects our Ships to. This, my Lords, is what no Nation in *Europe* will suffer from one another, and we ought, least of all, especially from the *Spaniards*. It is shameful that we have suffered it so long. If we suffer our Seamen to be insulted or interrupted, we give up the Honour of the Nation, we give up all that formerly gave us Success, Conquest, and Glory.

' People,

People, my Lords, talk of *Cromwell*, that he was an Usurper: I don't deny that; but he still had many valuable Qualities, and wanted nothing but a lawful Title to have made him one of the greatest Men that ever governed this Nation. He my Lords, had one Maxim from which he never deviated; and that was, never to suffer even the Appearance of an Insult upon this Nation to pass unobserved. Notwithstanding, my Lords, his disputed Title to the Government, a formidable Opposition at home, and powerful Alliances against him abroad, he kept up the Dignity of the Sovereignty, and carried the Reputation of the *British* Flag to as great a Height as ever it has been carried. He, my Lords, had to do with three powerful States, *France*, *Holland*, and *Spain*; each of them more powerful than they are now: But my Lords, he never entered into any inglorious Treaty, he never submitted to any ignominious Terms.

Ann. 12 Geo. II;

1738-9.

He told them what he was resolved to have, and what he would do, if he had it not. This positive way of proceeding, my Lords, effected all the Nation could desire, for we don't find in History, that any Power was so bold as to slight his Menaces; they knew him too well to take him for a Bully; he never fitted out any Armaments, either by Sea or Land, with which he did not strike some decisive Stroke. I will tell you my Lords, one Instance: When the *Spaniards* fitted out a Fleet to conquer an Isle in the *Mediterranean*, for want of Provisions of their own, they seized upon Corn that belonged to a *British* Subject, to the value of 30,000 l. On our Consul's remonstrating against such a Procedure, they clapped him in Prison. What did *Cromwell* do upon this? Did he send Plenipotentiaries, at a great expence to the Nation, to examine into the nature of the Complaints on both Sides? Did he patch up a Convention for regulating the Grievance? No; he ordered his Resident at that Court to tell them in plain Terms, that he gave them so many Days to consider, if they would make him Satisfaction (upon the Terms, my Lords, which he himself prescribed) and if they did not in the Time limited, that he would come with his Squadron and demand it, upon their Coasts, from the Mouth of his Cannon. This blunt Speech had its desired Effect; the *Spaniards* knew whom they had to deal with; therefore they did not treat, but submit.

Supposing, my Lords, we had acted with the same Spirit, don't your Lordships think it would have had the same Effect? And why did we not act with the same Spirit? We are more powerful now, than we were in the Days of *Cromwell*. The *Spaniards* are weaker, and our Provoca-

Ann. 14 Geo. II.
1738-9.

tions are much greater now, than they were at that Time. What Insults, what Barbarities, what Breaches of Faith have not the *Spaniards* committed of late? They have plundered our Merchants, they have destroyed our Ships, they have murdered our Sailors; nay, what is more insufferable, they have chain'd, they have tortured our Countrymen: A Method of Punishment this Nation has ever detested; a Barbarity, which even our worst Malefactors are free from, by undergoing a Punishment in all Respects more desirable, that is, Death itself. My Lords, it will astonish Posterity, that we have suffered all these Indignities, while we have a Fleet able to defy not only *Spain* and *France*, as I said before, but all the Nations in *Europe*.

' It's said, my Lords, that we may want other Forces to carry on this War to Advantage. It is very possible, we may: but has the Parliament ever yet refused to comply with any Demand of that Kind, when Land-Forces, my Lords, were necessary? I dare say, the Parliament would allow 100,000 Men, if there was Occasion for them. But the Misfortune is, my Lords, that the Nation, I am afraid, will not be persuaded, even though these were raised, that we are in earnest: People will think that our Land-Army will continue as unactive as our Fleets have hitherto been; and that our raising Forces before we shew that we dare to do ourselves justice, will but expose the Nation to greater Inconveniencies and enhance its Expences.

' Last Year, a strong Squadron was sent to the *Mediterranean*, under the command of a Gentleman, against whom, I am sure, no-body can have any Exception. I know him to be a brave Officer, and that he has the Interest of his Country much at Heart. But, my Lords, of what Use are all these Qualifications to the Nation, if his Guns are muzzled, if his Hands are bound up by his Instructions from the Ministry? What Service have the Ships under his Command performed to his Country? What Ends have the vast Sums of Money we have expended, served, if not to weaken us while we are Inactive; so that we shall not be able to furnish the necessaries Expences when we shall come to Action? What Plea then, my Lords, can there be for not declaring War? It is to avoid the Profusion of Money? Money, my Lords, we daily expend to extravagant and useless Purposes. Is it to avoid the Profusion of Blood? No: Yet you have suffered your own Sailors to be daily insulted and murdered. My Lords, it is time enough for us to shew our Tendernefs to *Spain*, when we have revenged the Wounds given to the Honour of *Great Britain*.

: My

‘ My Lords, as I did not propose, and as I find myself Ann. 13 Geo. III.
 incapable, especially on this Occasion, to speak, in order, 1738-9.
 to every thing that has been suggested in this Debate, I shall
 take them just as they come into my Mind. The Differences
 betwixt *Spain* and us are not of such a Nature as to affect
 only one Set of Men amongst us. It is not our *West-India*
 Merchants, my Lords, alone, that must suffer, should we
 approve of this Convention. Give me leave to say, that
 there is not a Merchant of whatever Denomination in this
 Kingdom, there is not a Shop-keeper, there is not a House-
 keeper, there is not a Tradesman, nay, there is not a landed
 Gentleman in the Kingdom, whom it will not affect. Con-
 sider, my Lords, that the Balance of our Trade to almost all
 other Places in the World, except our own Settlements, is
 against us. But a noble Lord has, I think, demonstrated,
 that if we approve of this Convention, we leave our Trade
 and Settlements in the *West-Indies*, entirely to the Mercy of
Spain. What Resource can we then have for supplying the
 Nation with those Necessaries of Life, which we now im-
 port from our own Settlements, and which, if they are ru-
 ined, we must have from other Nations, in what Manner,
 and upon what Terms they please ? Therefore my Lords, it
 is no wonder, if all Ranks, and all Degrees of Men turn their
 Eyes upon your Lordships at this important Juncture. If,
 I say, they look on their All as being at Stake, if they
 have express’d some impatience under the Apprehensions of
 its being given up, I do not wonder at it. The Reverend
 Prelate said, that the Advocates for the Opposition, had
 great Advantages over those for the Ministry, by means of
 certain Sounds and Words. My Lords, I am afraid there
 is something, in this Case, more than bare Sounds and
 Words. I’m afraid the real Things themselves are in dan-
 ger, and that the Liberties and Interests of this Nation must
 suffer, if your Lordships should approve of this Measure.
 My Lords, I have formerly known the People spirited up
 by artful, or hot-headed Men against the Government, and
 I have known them commit very great Excesses ; but, my
 Lords, I always observed, that these Excesses were com-
 mitted by the very Dregs of the People, who neither knew
 what they were about, nor what they wanted. I observe a
 quite different Spirit at this time. The Spirit of Opposition
 that now prevails, my Lords, is among your cool-headed
 Men, Men of Weight and Interest in their several Stations,
 who pay largely towards the Support of the Government,
 and therefore think it a Hardship to suffer by any Public
 Measure. My Lords, though I had no manner of Know-
 ledge of the Nature of this Convention, though I were

Ann. 73 Geo. 3.

1738-9.

quite ignorant of all the Transactions that preceded it, yet this very Circumstance would determine me to suspect if not oppose it. When I see Men of Figure in their Way, crying out against it, when I see the greatest City in the Kingdom petition against it, what should make them such zealous Opposers, but their being persuaded that a Peace, on the Foot of this Convention, must be more destructive to their Interests, than a vigorous War? Their Interests, my Lords, lead them to desire Peace, they must be considerable Sufferers in a War, by their Ships being taken, the Increase of the Taxes, and the Stagnation of their Trade: But still, my Lords, we see, that they look upon all these Evils as more tolerable, than such a Peace as this Convention must give them.

‘ It is certain, my Lords, that the Peace we have lately enjoyed is not very desirable; we have paid dearly for it; nay, I believe it has cost the Nation more to make Peace, than it would have done to have made War. But, says a noble Lord, the *Spaniards* are very slow; give me leave to add, my Lords, they are very obstinate too. But why are we to pay for their Slowness and Obstinacy? Are we to fit out Fleets, at a vast Expence to the Nation, only to quicken them to do what Equity, what the Law of Nations, and what positive Treaties require them to do? But, my Lords, the worst is, that we have not even obtained that: We have only brought them to negotiate, and to give us a Treaty where not one of these Considerations has been regarded. This, it seems, proceeds from their Obstinacy; Why then have they not been made to pay for their Obstinacy? Why should we pay for it? If they had a mind to be obstinate again, and to refuse to fulfil even the Terms of this poor Treaty, are we to be again at the Expence of 5 or 600,000 *l.* only to bring them into good Humour?

‘ My Lords, when I first heard this Treaty read, I thought it set out with a very bad Air: The Preamble begins, *Whereas Differences have arisen*; it does not say, justly or unjustly. But what Differences, my Lords? That Word always implies a Disagreement of Opinion, betwixt two Parties, with at least a Shew of Reason, and an Appearance of equal Provocation on each Side. But, my Lords, is that the Case betwixt us and *Spain*? Has she been able to justify her Depredations, either by the Law of Nations, or Tenor of Treaties? No; the noble Lord, and the Reverend Prelate who spoke so fully in her Vindication, has not, I think, given us an Instance of a legal Capture of one Ship, among all the numerous Instances complained of, even admitting that they have a Right to search in the manner the Reverend Prelate has pleaded

pleaded for. I must therefore confess, I was very much surprized to hear a noble Lord explain the Preamble to this Treaty, in the manner he did, as a Proof of the Willingness of the Court of *Spain* to adjust all Differences betwixt us and them, on an equal Footing. Had we taken as many Ships from the *Spaniards*, as they have done from us, I should have had no Objection to this Preamble; but, as it stands, it puts the two Nations upon an Equality of Losses, though one has been the constant Aggressor, the other the perpetual Sufferer.

The other Particulars of this Convention have been already so fully spoken to, that I think it unnecessary for me to add any Thing more on those Heads; but, my Lords, I cannot help taking notice of what happened just before the Ratification of this Convention, when we find the Court of *Spain* prescribing to us, and our Plenipotentiary obeying a *Spanish* Minister, as he would have done a *British* one. The *Spaniards*, it seems, could not be brought to any Terms, till the Sitting of Parliament approached so near, that they were sure our Ministry would give up every Point of Consequence, rather than not have a Treaty of some kind or other, to lay before Parliament, when it met. My Lords, Delay in such an Affair as this, is equal to a point-blank Refusal. Yet, we find, by the Letters now upon your Lordships Table, that, after a Plan of Accommodation was drawn up by our Ministers, and every thing looked upon as finished, the *Spanish* Minister very rightly apprehended, that they who would grant so much, would grant more. Upon which, a new Claim is started, and they refuse to ratify what they had before agreed to, till Mr. Keene had, as Minister of *Great Britain*, acknowledged a Debt to be due, which, in that Capacity, he had no Power to acknowledge; and, in the Capacity of Agent for the *South-Sea* Company, he ought absolutely to have disclaimed. My Lords, this Way of proceeding proves plainly, that he has scandalously betrayed the Interest of that Company. He has sacrificed them to the Injustice and Exorbitancy of the Court of *Spain*; and put them upon the hard Dilemma, either of paying a large Sum on no Pretence, or of being the Bone of Contention betwixt the two Nations.

But, my Lords, that Company has no greater Reason to complain of her Agent, than the Nation has of her Ministers. Compare the Dates of the Consul of *Cadix*'s Letters, with the Time of near a Hundred *Englishmen* being barbarously imprisoned and chained in that City, for no other Reason but because they were *Englishmen*; and you will find, my Lords, that these Dates exactly agree. The Inhumanity

Ann. 12 Geo. 2.
1738-9

Ann. 12 Geo. II.

1732-3

was taken notice of by all the World, except by that Consul himself. He observes a profound Silence on this Head, though his Letters wrote at that Time are very full and explicit upon other Points. My Lords, what can we think of this Behaviour? that a *British* Consul should, with the greatest Unconcern imaginable, see his Countrymen daily labouring under Confinement, Chains, and Insults? Does not this imply that the *Spanish* Ministers and ours understood one another? Does it not imply some under-hand Dealing, some secret Collusion, in order to avoid a War?

I confess, my Lords. had I been a Minister, I would not have given my Advice to run precipitately into bloody Measures; but I would have endeavoured to have taken more prudent Steps, than what I am afraid have been followed, It is true, my Lords, that a War, if it can be avoided with Honour, especially with *Spain*, is not for the Interest of this Nation; and that cautious Proceedings are the best Means of establishing his Majesty, and his Royal Family, on the Throne of this Kingdom: But, my Lords, though I am for Caution, I am not for Pusillanimity. That may bring the Nation into Contempt, and this Nation never can be brought into Contempt without weakning the Royal Authority. I know, that the Fear of the Pretender has a mighty Influence with a great many, who talk upon this Subject. But, my Lords, I am of Opinion, that our going on in the same Measures we have done for some time past, will be playing the Pretender's Game for him. I am sure his Majesty has the Hearts of the People, and can command their Hands to: But a Perseverance in these Measures will divide us among ourselves; and, my Lords, if we are divided, we must be weaker, and give the Enemies of the present happy Establishment a better Chance of succeeding. For my own Part, my Lords, I believe no-body doubts of my Zeal for the Continuance of the Crown upon his Majesty's Head, and his Family; I have formerly strenuously asserted the Rights of this Family, and as I have done it on more than one Occasion, it is the more unquestionable. But, my Lords, it is not my Duty alone that begets this Attachment; my Inclination is as strong as my Duty. The Knowledge I have of his Majesty's Personal Virtues, makes it the Happiness and Glory of every Subject to serve him. I know, that he is as strongly attached to the Interests of his Subjects, as any Prince who ever sat upon the Throne. But, my Lords, the best, the wisest, and most discerning Princes, must see many of their most important Affairs in the Light their Ministers represent them: If the Ministers misrepresent them, they, my Lords, and not the Prince, are to blame. Had

not

not his present Majesty been misled in this Particular, sure I am, that he would have vigorously asserted the Rights and Privileges of his People, as the greatest of his Predecessors ever did. He, my Lords, would have imitated the Example of that great Prince, King *Edward III.* to whom he may, in many other respects, be so justly compared. And now I have mentioned that great Prince, I beg leave to suggest to your Lordships, in what manner he would have behaved. The Difficulties he had to struggle with, from a weak Administration in his Minority, were very great. The Kingdom, my Lords, was then governed by a Faction composed of a few Favourites about the Person of the Queen-Mother; who chose to buy a scandalous Peace of the *North-Britons*, a People, my Lords, that never abounded over-much in Riches, and who were very glad to finger a little of the ready Money of this Nation. What did the King do, my Lords? Young as he was, he had the Minion, the Minister, who advised that scandalous Peace, seized; he had him tried, and hanged. Let us consult History further, my Lords; let us consider the Behaviour of King *Edward IV.* in an Instance of a similar Nature. Did he bear with the Injuries *France* offered to the Nation? No; he had Recourse to Arms; and as his Cause was just, his Soldiers went victorious. The Reign of Queen *Elizabeth*, the most glorious perhaps in all the *British* Annals, was always successful, because it was conducted by a wise and prudent Administration. She neither governed by Affection, nor by a Minister; for though *Burleigh* was styled prime Minister, yet he was only so in Name. He had, indeed, a greater Share of Business, and greater Fatigue, than any of the rest; but the Affairs of the Government were never left to him alone. Commissaries were always appointed, upon every urgent Crisis of Affairs; and the Administration was composed of many, who, though they bore the utmost Animosity against him in their private Capacity, yet all united in the Common Cause; they laid aside all other Considerations, when the Interests of their Mistress were concerned; when the Honour of the Nation was at Stake. They strenuously entered into warlike Measures, rather than suffer any Insults; and as their Cause was founded on Equity, Success attended their Arms.

To conclude, I entirely concur with the noble Lord, who first spoke against the Address. If it be presented, the Event will be dangerous, the Consequence fatal. Many other Instances I might produce from History to justify my Assertions; but as I have already taken up too much of your
Time,

Ann. 1st Geo. II. Time, I will only say—these Sentiments proceed from an honest and impartial Heart.’

1738-9.

The Lord Chancellor.

Lord Chancellor. ‘ My Lords, The Address now proposed to you, is so agreeable to the Resolutions you came to last Session of Parliament, upon the Depredations that had been committed by *Spain*; and it is so natural a Consequence of the Address you presented to his Majesty upon that Occasion, and of the Measures his Majesty has since taken in pursuance of that Address, that when I first heard it proposed, I did not expect it would have met with the least Opposition. By the Resolutions you came to last Session of Parliament, you asserted the Right which the People of this Nation have to a free Navigation in the open Seas of *America*; and you declared, that many unjust Seizures had been made, and great Depredations committed, by the *Spaniards*, to the great Loss and Damage of the Subjects of *Great Britain* trading to *America*, and in direct Violation of the Treaties subsisting between the two Crowns. This was the Sum of your Resolutions, and in consequence of these Resolutions, you addressed his Majesty to use his Endeavours with his Catholic Majesty, to obtain effectual Relief for his injured Subjects, and Security for our Navigation and Commerce in Time to come; and at the same time you assured his Majesty, that in case his royal and friendly Instances should not prevail, you would effectually support his Majesty in taking such Measures as Honour and Justice should render necessary.

‘ From hence, my Lords, it appears to have been the Opinion of this House last Session of Parliament, that we had then no Occasion to come to an immediate Rupture with *Spain*; but that his Majesty should first try what he could do by peaceable Means for obtaining Reparation for past Injuries, and Security against any such for the future. Accordingly his Majesty did, in pursuance of this Advice from his Parliament, renew his Negotiations with the Court of *Spain*; and to give his Negotiations their proper Weight, he fitted out such Squadrons as were sufficient for protecting the Trade, and vindicating the Honour of this Nation by Force of Arms, in case that Court had refused, or unreasonably delay’d hearkning to those friendly Instances that were made to them by his Majesty.

‘ This, my Lords, we now find has had the desired Effect. From the Preparations that were made here at Home, and the Squadrons that were fitted out, *Spain* saw that we were

were in Earnest, that his Majesty was resolved not to be any longer trifled with, and therefore they began seriously to consider the Consequences of an open Rupture. These Consequences they had Reason to be afraid of, they were afraid of them, and by their Fears they were induced, I may say compelled, to give Ear to the friendly Instances that were made to them, and to acknowledge the Injuries they had done, by promising to make as ample a Satisfaction as we could reasonably insist on. I say, my Lords, as ample a Satisfaction as we could reasonably insist on; for surely, if we expected Satisfaction from them, it was but reasonable that we should allow them Satisfaction for all the just Claims they had upon us. According to this, which is certainly the just, and the only reasonable way of reckoning, in every Case where there are mutual Demands, the stipulated Payment, which they have agreed to make in four Months after the Ratification of the Treaty, is a full Reparation for all the Demands we had to make upon them, allowing a reasonable Discount for prompt Payment. For, even according to the Account stated by our own Commissaries, the Claim of our Merchants did not, at a moderate Computation, amount to above 200,000 *l.* and the Claims they had upon us, were allowed to amount to at least 60,000 *l.* which reduced the Sum due by them to us to 140,000 *l.* for the prompt Payment of which, we have allowed them 45,000 *l.* which is but a reasonable Allowance, considering the Delays we might have met with, if we had accepted of Assignments upon his Catholic Majesty's Revenues in *New Spain*: Allowing therefore of this Discount, it reduces the 140,000 *l.* which is all we could pretend to be due, to the Sum of 95,000 *l.* which Sum they have, by this Convention, expressly promised to pay here at *London*, within four Months after the Ratification; and that, without delaying the Payment of the said Sum, on account of any Restitution that has been made, in consequence of his Catholic Majesty's Orders, of the whole, or any Part of the Value of the Ships mentioned in the fourth Article.

Thus, my Lords, we may see, that by this Convention his Majesty has obtained one of the chief Things recommended to him by his Parliament last Session; and as this has been obtained without involving the Nation in a War, we have the more reason to thank his Majesty for the tender Regard he has had, not only for those of his Subjects that have already suffered by the *Spanish* Depredations, but for all his Subjects; because it is certain they would all have greatly suffered, if he had rashly and unadvisedly involved the Nation in a dangerous and expensive War. But with respect

Ann. 12 Geo. II.
1738-9.



Ann. 12 Geo. II.
1738-9.



to our future Security, as it depends upon Disputes, which it was impossible to enquire into fully, and determine absolutely, without a very mature Deliberation, therefore, from the very nature of the Thing, we could not expect, nor could his Majesty with any Show of Reason insist upon its being explicitly provided for by a preliminary Convention; however, his Majesty has taken so great Care of the future Security of our Navigation and Commerce, that he has got the *Spanish* Court to agree, by this Convention, to submit all the Disputes that now subsist between the two Nations, to the Discussion of Plenipotentiaries, to be named respectively by the two Crowns; and, that no chicaning Delays may be made use of on the Part of *Spain*, it is expressly provided, that the Plenipotentiaries so named shall begin their Conferences six Weeks after the Exchange of the Ratifications, and shall finish them within the Space of eight Months.

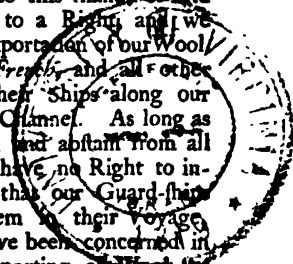
‘ This was, in my Opinion, my Lords, all that it was possible to do by a preliminary Convention, with regard to the other Disputes that now subsist between us and *Spain*; but though the final Determination of those Disputes be deferred for a short Time; though we have submitted them to the Discussion of Plenipotentiaries, yet by such Delay and Submission, we are so far from having acknowledged any of our undoubted Rights to be disputable, as has been groundlessly insinuated, that the *Spaniards* have, in some Measure, given up that Right, which is the principal one in dispute between the two Nations. They pretended to a Right to search our Ships in the Seas of *America*, in order to see whether they had been concerned in an illicit Trade, and to seize and confiscate Ship and Cargo, in case it appeared that they had been concerned in such a Trade, by their having what they call *Contraband* Goods on Board. They have by this Convention agreed to make good to us the Damages we have sustained by their Exercise of such a pretended Right. They have agreed to pay us Costs; and is not this a direct Acknowledgment that they have been in the Wrong? This is at least a tacit Acknowledgment, that they now think they had no just Claim to the Right they have so long pretended to; and this, I think, is a certain Sign, that by the definitive Treaty, which is to be concluded in pursuance of this preliminary Convention, they will make no Scruple to give it up in the most express Terms we can desire.

‘ But, my Lords, with regard to the present Disputes between the *Spaniards* and us, I find People have generally fallen into a very great Mistake, by not distinguishing properly between a Right, and the Enjoyment of that Right. We have a Right to a free Navigation in the *American* Seas, and to
carry

carry on what Commerce we think fit between our own Colonies and *Great Britain*, or between any one of our own Colonies and another: This is a Right which the *Spaniards* never pretended to dispute with us. On the other hand, they have a Right to prevent the carrying on of any Contraband Trade with their Settlements in *America*; which is a Right we never pretended to dispute with them. The chief Dispute between us, is about the Enjoyment of our respective Rights. They do not dispute our Right to a free Navigation in the *American Seas*; but the Question between us is, how we shall enjoy that Right, so as not to prejudice their Right to prevent a Contraband Trade's being carried on with their Settlements in that Part of the World: Nor do we dispute their Right to prevent such a Contraband Trade; but the Question is, how they shall enjoy that Right, so as not to prejudice our Right to a free Navigation. This is the chief Dispute now subsisting between the two Nations; this must be regulated before Peace and Friendship can be fully restored; and this could not be done in a short Time, or by a preliminary Convention. The Affair must be fully examined, and maturely considered, in order to contrive, and mutually settle such Regulations as may not be prejudicial to either. For this Reason it was referred by both to be enquired into, and regulated by Plenipotentiaries: But what are these Plenipotentiaries to regulate? Not the Rights of either Nation; but only the Methods by which each Nation is to enjoy its respective Right for the future.

My Lords, if we would but consider our own Case, I am persuaded we would look upon this as an Affair not quite so easy to be settled as some People imagine. We pretend to a Right, and we certainly have a Right, to prevent any Goods from being clandestinely run into this Island, or into any of our Dominions. We pretend to a Right, and we certainly have a Right to prevent the Exportation of our Wool. On the other hand, the *Dutch* and *French*, and all other Nations, have a Right to sail with their Ships along our Coasts, and even through the *British Channel*. As long as they give us the Honour of the Flag, and abstain from all clandestine and prohibited Trade, we have no Right to interrupt them; yet every one knows, that our Guard-ships and Custom-house Sloops often stop them in their Voyage, in order to examine, whether they have been concerned in any clandestine Trade, such as the exporting of *Wool*, or running any prohibited uncustomed Goods. Nay, we have gone so far as to make Laws against Ships that shall be found hovering *within two Leagues* of our Coast; and particularly, by a Law passed but very lately, it is enacted, That, where
any

Ann. 12 Geo. II,
1738-9.



Ann. 12 Geo. II.

1738-9.

any Vessel coming from Foreign Parts, and having on Board six Pound of Tea, or any Foreign Brandy, or other Spirits, in Casks under sixty Gallons, except two Gallons for each Seaman, shall be found at Anchor, or hovering within the Limits of any Ports of this Kingdom, or *within two Leagues* of the Shore, and not proceeding on her Voyage with the first Opportunity, all such Tea, Foreign Brandy, and Spirits, together with the Package, or the Value thereof, shall be forfeited, and the same may be seized.

‘ This, my Lords, I do not mention with a Design to draw any Parallel between our Behaviour, and the Behaviour of the *Spaniards*: We have exercised our Right in such a manner, that no foreign Nation has the least Reason to say we have done them an Injury, or to complain of the Regulations we have made for the Preservation and Exercise of our Right. On the contrary, the *Spaniards* have exercised the Right they have to prevent a Contraband Trade with their Settlements in *America*, in such a manner, that not only we, but every Nation in *Europe* that has any Trade in that Part of the World, have just reason to complain of them, and to insist upon their altering the Regulations they have made for the Preservation of their Right. Therefore, I say, I do not mention this in order to make a Comparison between their Conduct and ours; but I mention it to shew, that where a Nation has a Right of any kind, they have a Power to make such Regulations, even with regard to Foreigners, as they think necessary for the Preservation and Exercise of that Right, provided those Regulations be not inconsistent with the Law of Nations, nor prejudicial to the Rights or Privileges of their Neighbours. This is the principal Dispute at present between *Spain* and us. We ought in Justice to allow them to make such Regulations, as may be necessary for preventing the carrying on of any Contraband Trade with their Settlements in *America*; and on the other hand, they ought in Justice to give up, and depart from any Regulations they have made, if upon Examination they be found contrary to the Law of Nations, or if by Experience they have been found Prejudicial to the undoubted Rights and Privileges of this Nation. We have a Right to a free Navigation in the *American* Seas; but we ought not to insist upon that Navigation’s being so very free and unconfined, as to render it impossible for the *Spaniards* to prevent an illicit Trade with their Settlements in that Part of the World. We should look upon it as the Height of Injustice, if the *French* or *Dutch* should insist upon such an unlimited Navigation along our Coasts, and through the *British* Channel, as would render it impossible for us to prevent the Exporta-
tion

tion of our Wool, or the running of prohibited and uncus-
tomed Goods in upon us. If your Lordships consider the
Affair in this Light, I am convinced you will be all of my
Opinion : You will look upon it as an Affair that could not
be easily settled ; and will therefore think, that the most his
Majesty could do, was to have it referred to the Plenipoten-
tiaries, in order that they might settle such Regulations be-
tween *Spain* and us, as might be effectual for the Enjoyment
of the Right of each Nation respectively, without hurting
the Right of the other ; and at the same time you will see,
that the Word *regulate*, was the only proper Term upon this
Occasion, and that it does not mean an Acknowledgment of
any unjust Right pretended to by *Spain*, nor a giving up of
any of the undoubted Rights of this Nation, as some People
have endeavoured to represent.

Ann. 12 Geo. II.
1738-9.

‘ It has been proved at your Bar, my Lords, and every
Man who considers the Situation of our Islands, and the *Span-
ish* Islands in the *West-Indies*, and the Nature of the Winds
and Tides in the *American Seas*, must see, that the Ships of
both Nations must often and necessarily sail *within two
Leagues* of the Coasts of one another : Our Ships may even
sometimes be obliged to hover upon their Coasts ; and it
may, for what I know, be found absolutely necessary, to al-
low the *Spaniards* a Liberty, under proper Regulations, to ex-
amine such of our Merchant-Ships, as they find hovering with-
in a certain Distance of any of their Coasts in that part of the
World. This Liberty, I say, may, for what I know, be
necessary, for enabling them to prevent an illicit Trade’s be-
ing carried on between our Subjects, and their Settlements
in the *West-Indies*. It is a Liberty we ourselves take with
the Ships of all Nations, that are found hovering *within
two Leagues* of our Coasts. Nay, it is a Liberty which
seems to be granted to them, and established by the Treaties
subsisting between the Two Crowns ; for by the 4th Ar-
ticle of the Treaty between *Spain* and us, in the Year 1667,
it is expressly stipulated, That if any Ship belonging to the
Subjects and Merchants of the one or other Nation, enter-
ing into Bays, *or in the open Sea*, shall be encountered by
the Ships of War belonging to the other Nation ; such Ship
of War may examine such Merchant-Ship, and if any pro-
hibited Goods be found on Board such Ship, the same may
be taken out and Confiscated. From whence it appears, that
the *Spanish* Ships of War have already a Power to examine
such of our Merchant-Ships as they encounter in the open
Seas, whether in *America* or *Europe* ; for the Article is
without Limitation ; and if they have of late made an un-
just or wrong Use of that Power, we ought to insist upon its
being

Ann. 12 Geo. II. 1738-9. being put under such Regulations, as may prevent such a bad Use being made of it in Time to come ; but as the contriving and settling such Regulations, must require a Consultation with those who are well acquainted with the Trade and Navigation in *America*, we cannot suppose they could be settled by a preliminary Treaty ; and therefore, the only Measure that could be taken, was, to refer them to be settled by Plenipotentiaries, so as that they might afterwards be made part of a definitive Treaty between the two Nations.

I must now, my Lords, beg Leave to consider a little, the Dispute between *Spain* and us relating to *Carolina* and *Georgia*. This, likewise, my Lords, cannot properly be called a Dispute about any of the undoubted Rights, either of this Nation, or of *Spain*. They do not dispute, at least they have not lately disputed, our Rights to what was formerly called *Carolina*, of which *Georgia* is a Part ; nor do we dispute their Right to the Southern Parts of *Florida* : The only Dispute between us, is about the Limits between our respective Possessions in that Part of the World ; and this Dispute it was impossible to settle by a preliminary Convention. Such Disputes, we know, are seldom adjusted, even by a definitive Treaty ; for when any such Dispute subsists between two Nations, they often, I may say generally, conclude even a solemn and definitive Treaty, and by that Treaty they agree, that the Limits between their respective Territories shall be afterwards adjusted and settled by Commissioners or Plenipotentiaries, to be named and appointed by the two contracting Parties respectively ; and therefore, my Lords, I must say, I am surprized to hear the least Objection made against this Part of the Convention now under our Consideration.

'Tis true, my Lords, we have agreed, that, during the Time that the Discussion of this Affair, relating to the Limits between *Carolina* and *Florida*, shall last, Things shall remain in the aforesaid Territories of *Florida* and *Carolina*, in the Situation they are in at present, without increasing the Fortifications there, or taking any new Posts. This is a sort of Suspension of the free Enjoyment of our Right, but this is a Confirmation of the Right itself ; because it imports an Acknowledgment from *Spain*, that we have a Right to some Territories in *Florida* or *Carolina*. And for this very Reason, it would have been wrong in us to have admitted of any Article or Words in this Treaty, for obliging the *Spaniards* to suspend searching our Ships on the open Seas of *America*, during the discussion of that Affair ; because our having stipulated any such Suspension, would have been an Acknow-

Acknowledgment that they had some sort of Right to do so; in which Case, some Lords would have had much more Reason than they have at present, to insinuate, that by this Treaty we had given up, or rendered disputable, some of the most undoubted Rights of this Nation.

Ann. 12 Geo. II

1738-9.

‘ Having thus, my Lords, shewn, that no reasonable Objection can be made to the Treaty now before us, I must beg your Lordships to consider the present Circumstances of *Europe*, the Circumstances of this Nation, and the Relation we stand in to *Spain*. To all Nations it must be granted, that Peace is a desirable Thing. It must be allowed, that no Nation ought to enter into a War against any neighbouring Nation whatever, if they can obtain every Thing they can justly demand by peaceable Means. But with regard to this Nation, we ought to be more cautious of entering into a War than most others. We are a trading Nation: A great Part of our People subsist by Trade; and even our landed Gentlemen, who have no concern in Trade, owe a great Part of their yearly Revenue to the Commerce and Manufactures we carry on; for if it were not for our Trade and Manufactures, our Farms could not let at so high a Rent as they do, nor could we have near so many Houses in our Towns and Villages. Therefore, as War must always interrupt our Trade, we ought to be extremely Cautious of engaging in War, and more so with regard to *Spain* than most other Nations in *Europe*; because, I believe it will be allowed, that our Trade with *Spain* is more profitable to the Nation in general, than our Trade with any other Nation in *Europe*, except *Portugal* alone. But suppose we were under a sort of Necessity to engage in War, yet unless that Necessity were extremely urgent as well as unavoidable, we ought to put off engaging in War for some Time, both on account of our own Circumstances, and on account of the present Circumstances of Affairs in *Europe*. With regard to our own Circumstances, it must be confessed, that, considering the present heavy Load of Debt we labour under, and the many Taxes we are obliged to raise for the Payment of that Debt, we are at present in no very good Condition for engaging in a dangerous and expensive War; and with regard to the Affairs of *Europe*, they were never in a more unlucky Situation for us, than they are at this Time. If we should immediately engage in a War with *Spain*, ’tis possible, I may say, ’tis probable, that the *Spaniards* will be assisted by *France*, and perhaps by some other Powers of *Europe* we little dream of at present. On the other Hand, as the Emperor is engaged in a War with the *Turks*, and has been most surprizingly unlucky in the Prosecution of that War,

Ann. 12 Geo. II.

1738-9.

War, we can expect no Assistance from that Quarter ; and this will of course prevent any of the other Powers upon the Continent from giving us any Assistance, because it will be impossible to form an Army upon the Continent, sufficient for protecting them against the united Force of *France* and *Spain*, assisted, perhaps, by several of the other Princes and States in *Europe*.

‘ I know, my Lords, it may be said, that as we have the good Luck to be environed by the Sea, and have a Fleet superior to any that *France* and *Spain*, joined together, can bring against us, we may protect our own Trade and Dominions, and so much infest the Trade and Dominions of our Enemies, as to make them, at last, glad to agree to reasonable Terms ; but, my Lords, if our Enemies are, by their great Land-Armies, absolute Masters upon the Continent, they may not only prevent our receiving Assistance from any of the Princes or States upon the Continent, but they may induce or oblige them all to join against us ; at least, they may oblige them to deny us Access to any of their Ports or Harbours, either for our Men of War or Merchant-Ships, which would at once put an entire Stop to our Trade, and would make it impossible, or very dangerous, to send our Squadrons to any great Distance from our own Ports ; for tho’ they may be superior to any Squadrons that can be fitted out against them, they are not equal to Winds and Tempests. By these they may be scattered and dispersed, some of them, perhaps, swallowed up, and the rest left a Prey to a pusillanimous Foe, that might lie skulking in Port, and watching for such an Opportunity.

‘ It must therefore be acknowledged, my Lords, that the present Circumstances of our Affairs, both at home and abroad, are no way suitable for our engaging in an immediate War. I should have been far from saying so much of them, if they had not been well and publicly known. And as every Thing I have said is well known to every Court in *Europe*, I think, that, instead of finding Fault with the little we have obtained by this preliminary Treaty, we have reason to be surprized, that his Majesty was able to obtain so much. If the Treaty had been much less favourable for us, I should have been for approving it, because it would have prevented our being obliged to come to an immediate Rupture ; for though the Circumstances of our Affairs, both abroad and at home, be at present in a bad Situation, they cannot long continue so : Our own Circumstances, while we remain at Peace, will be every Day growing better : We shall every Year be able to pay off some part of our Debt, and thereby either diminish our Taxes, or increase our Sinking Fund.

And

And as to the Circumstances of Affairs in *Europe*, they can not long remain in the present Situation: It is the peculiar Happiness of this Island, that no one Nation in the World can attack us; and, if we do not rashly and unadvisedly attack them, if we will but have Patience, we can seldom fail of meeting with a good Opportunity, in every four or five Years time, for making the proudest and the most powerful Nation in *Europe*, heartily repent of having injured this Nation; and that without exposing our own Country to the least Danger, or to any great Expence. As there are a great many different Interests upon the Continent, as those different Interests are every Day creating Disputes among the Princes and States thereof, and as several Deaths may happen that must give the Affairs of *Europe* a Turn in our Favour; it would be most imprudent in us to engage in a War at present, when the State of Affairs in *Europe* is in a Situation the most unfavourable for this Nation that ever any Age produced; and therefore, I must think, that the Convention now before us, was one of the wisest Steps that could be made; and that it highly deserves the Thanks of every Man who wishes well to his Country.

To what I have said, my Lords, I must add, that, in a few Years, we shall probably be more united among ourselves, than we are at present. It must be allowed, that we have at present a very numerous Party amongst us, who would be ready to join any Invader against our established Government: Some, out of a real Principle, some, from the Hopes of making or mending their own private Fortunes by the Change, and some from Malice, and an unjust Resentment against those who are employed in our Administration. The Numbers of those who are from Principle disaffected to our Government, will be decreasing every Day; because, as their Disaffection proceeds from a wrong Education in their Youth, their Children have had an Opportunity of learning other Principles, and of discovering the Ridiculousness of those Principles by which their Parents were governed; so that Nature itself must put an end to this Disaffection, since it can meet with no considerable Supply from the rising Generation. As for those who hope for Advantage by a Change, their Numbers will always depend upon the probability of Success, and therefore must always be greater or less, according as the Juncture of Affairs abroad is unlucky or favourable for this Nation: And as to those who are governed by Malice and Resentment, Time itself must blunt the Edge of their Passions; and common Prudence will prevent their engaging with the Enemies of their Country, when, from the State of

Ann. 12 Geo. II.
1738-9.

Ann. 12 Geo. II. Affairs in Europe, they can have but little Probability of Success.
 1738 -9.

‘ From all which Considerations, my Lords, I must be of Opinion, that if the present Convention had not been near so satisfactory as it is, it would have been more prudent in his Majesty to have accepted of it, than to have engaged the Nation in an immediate War ; but as I have shewn, that we have thereby obtained all we could reasonably desire, it must be allowed that his Majesty has closely, and with surprizing Success, followed the Advice that was given him by his Parliament last Session ; and therefore, I think, we can do nothing less than thank him in the Terms propos’d.’

The Lord Carteret.

Lord Carteret.

‘ My Lords, as I have before given you my Opinion upon this Question, which is not in the least alter’d by any thing the noble Lord that spoke last has said, I rise up now only to take notice of some Things that fell from that noble Lord. In the first Part of his Discourse he endeavour’d to shew, that the Measures pursu’d since last Session, and the Convention that has been concluded, were agreeable to the Resolutions and Address of this House last Session of Parliament. My Lords, ’tis so far otherwise, that to any one who reads the Resolutions we then came to, and the Address we then presented, both the Measures we have pursu’d, and the Treaty we have concluded, must appear to be directly contrary to the Advice we then gave. We advis’d peaceable Measures, ’tis true, but we did not advise that the Nation should, in the midst of Peace, be put to the Expences of a War : We advis’d his Majesty, ’tis true, to endeavour to procure Satisfaction and Security by peaceable Means, but we did not advise him to accept of a Treaty which stipulates neither the one nor the other : On the contrary, we expressly recommended to his Majesty, to insist not only upon no Search, but upon no contraband Goods ; whereas, in the Treaty, his Ministers advis’d him to accept of, there is not so much as a Stipulation against either the one or the other, though both have been for several Years openly and expressly pretended to by the Spaniards, and many of our Merchants plundered and ruined under that Pretence.

My Lords, to pretend to give Weight to Negotiations by raising Armies, and fitting out Squadrons, is a very modern, and a very extraordinary Piece of Politics : A Sort of Politics that was never practis’d in any Country but this, nor in this, before the happy Æra of our present Administration. When a Nation is actually engaged in War, it would, indeed,

deed, be imprudent to disband their Armies, or lay up their Squadrons, till a Peace is fully settled; but in time of Peace, it is ridiculous to put a Nation to the Trouble and Expence of Armaments, till a War is actually resolved on. As long as there are any Hopes of obtaining Satisfaction by peaceable Means, no wise and frugal Government ever put themselves to the Expence of extraordinary military Preparations. When all such hopes are vanished, they then, indeed, prepare for War; but it is always with a design to make a proper Use of the Preparations they make, unless their Enemies, besides Satisfaction for all former Demands, agree to make good the Expence which their Obstinacy has occasioned. To raise Armies, and fit out Squadrons, under pretence of giving Weight to Negotiations, can serve no end therefore, but that of Ministers, who, by such Means, get an Opportunity of filling their own, and the Pockets of their Friends; for there is no Power we can negotiate with, but knows, that we can both raise Armies, and fit out Squadrons, in case our Negotiations should prove unsuccessful; and our putting ourselves to such Expence, before we know the Issue of our Negotiations, must give those we negotiate with, a bad Opinion of our Conduct, which will of course diminish the Weight of our Negotiations; because they will conclude, that those who do not know how to govern in Time of Peace, will much less know how to govern in Time of War. This we may know from fatal Experience; for this Nation had never so little Influence upon the Councils of Europe, as since we began to pretend to give Weight to our Negotiations, by maintaining or increasing peaceable Armies, or fitting out harmless Squadrons: We have, by a long Course of such Politics, I am afraid, brought the Nation into such Contempt, that our Neighbours now as little regard our military Preparations, as they do our pacific Negotiations; and we have of late Years made so many Counter-treaties, that, I'm afraid, every Nation in Europe despises our Promises, as much as they condemn our Threatnings.

If we consider what has been done since last Session, and the great Expence the Nation has been put to; nay, if we give Credit to what has been insinuated by the noble Lords who have spoke in Favour of this Convention, we cannot say his Majesty has obtained this Treaty, insignificant as it is, by peaceable Measures, but by Warlike Preparations; and if the Obstinacy of the Spaniards made such Preparations necessary, they, and not the People of this Nation, ought to have been made to pay for their Obstinacy. But with Regard to the Treaty itself, if we will but look upon the Resolutions and Address of last Year, we must see that is still more contrary

Ann. 12 Geo. II.

1738-9.

Ann. 12 Geo. II.
1738-9.

to the Advice we then gave. We advised and recommended in the strongest Terms, that his Majesty should insist upon no Search, and also upon no contraband Goods: In this Treaty there is not a Word of either; and yet every one must allow, that we recommended, and that we had great reason to recommend, that the *Spaniards* should be obliged, either by peaceable Means, or by Force of Arms, to pass from both these Pretences in the most express Terms. The *Spaniards*, my Lords, may, without our Consent, make what Regulations they please for preventing an illicit Trade with their Colonies in *America*. provided these Regulations be not inconsistent with the Law of Nations, nor contrary to the Treaties subsisting between the two Crowns: But that of searching our Ships on the open Seas, is not only inconsistent with the Law of Nations, but expressly contrary to the Treaties subsisting between the two Crowns. The noble Lord was pleased to repeat a Part of the 14th Article of the Treaty of 1667: I wish he had repeated the Whole; for by that Article it is expressly stipulated, 'That if any Ship belonging to the Subjects and Merchants of the one or the other Nation, *entring into Bays*, or in the open Sea, shall be encountered by the Ships of War of the other; such Ships of War, to prevent Disorders, *shall not come within Cannon-shot*, but shall send their Long boat, or Pinnace to the Merchant ship, and only two or three Men on Board, to whom the Master shall shew his Passports and Sea-letters, to which, entire Faith and Credit shall be given.' Nay, by the foregoing Article it is provided, 'That if the Ships belonging to the Subjects of the one or other Nation, be necessitated to anchor in the Roads or Bays of either, or even to enter into the Ports of either, *they shall not be molested or visited*; but that it shall be sufficient for them to shew their Passports or Sea-letters, which being seen by the respective Officers of either King, the said Ships shall return freely to Sea without any Molestation.' From hence we may see, how careful our Administration was in the Reign of King Charles II. to guard against our Merchant-ships being exposed to the Trouble and Inconveniencies of a Search; and yet some People are as ready to censure every thing that was done in that Reign, as they are ready to applaud every thing that has been done in the present.

This Treaty of 1667, my Lords, as the noble Lord that spoke last has observed before me, is a general and unlimited Treaty: It relates to the Seas of *America*, as well as to the Seas of *Europ*; and as it has been renewed and confirmed by every Treaty betwixt the two Crowns since that Time, it plainly demonstrates, that the searching our Ships

in any Part of the World, or under any Pretence whatsoever, is contrary to Treaty, as well as inconsistent with the Law of Nations. Therefore, as the *Spaniards* have lately set up a Pretence to search our Ships on the open Seas of *America*, before we had submitted to treat with them about any Regulations, for rendering effectual the Right they have to prevent an illicit Trade with their Settlements in that Part of the World, we ought to have insisted upon their passing from this Pretence, in the most explicit Terms that could be made use of.

Ann. 12. Geo. II.

1738-9.

Now, my Lords, with Regard to contraband or prohibited Goods, for we must take care to distinguish between the two: Because contraband Goods are only Arms, Ammunition, and other Utensils of War, which are on Board a Ship bound to an Enemy's Port; therefore none of our Ships, either in the *American* Seas, or any other Seas, can have any Goods on Board, which the *Spaniards* can call contraband, unless she be bound to some of the Ports of those who are at that very Time in War with *Spain*. But suppose a *Spanish* Ship of War should meet at Sea a *British* Ship, and that by her Passports or Sea-letters, it should appear, that she is bound to a Port then belonging to the Enemies of *Spain*; for it can no other Way appear but by her Passports or Sea-letters, as is evident from the 14th Article of the Treaty of 1667, which I have already mentioned: Yet even in that Case, the *Spaniards* are not to search the *British* Ship at Sea, nor are they to confiscate the Ship and Cargo, for the sake of the contraband Goods that appear to be on Board. But by the 23d Article of the same Treaty, it is expressly provided, 'That in case any contraband Goods be found on Board, by the above-said Means, they shall be taken out and confiscated; but for this Reason the Ship and the other free and allowed Commodities which shall be found therein, shall in no wise be either seized or confiscated.' And to prevent all Disputes about what may be deem'd contraband, the several sorts of Goods to be deem'd contraband, are particularly enumerated in the 24th Article; and by the 25th Article it is expressly stipulated, 'That Wheat, Rye, Barley, or other Grain, or Pulse, Salt, Wine, Oil, and generally whatsoever belongs to the sustaining and nourishing of Life, shall not be deemed contraband, though designed to be carried to the Towns or Places of Enemies, unless such Town or Place be besieg'd, and block'd up, or surrounded;' which shews, that if the *Spaniards* had the least Regard for this Nation, or for the Treaties subsisting between the two Crowns, they would never have pretended to have seized a *British* Ship in the *American* Seas, on account of her having any contraband Goods on Board.

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Ann. 12. Geo. II.
1738.

‘ As to prohibited Goods, my Lords, they are very different from those properly called contraband. Prohibited Goods, which in *Latin* are called *merces prohibita*, without adding the Words *vulgo contrabanda*, are such Goods as are prohibited to be imported, or such as are prohibited to to be exported, by the Laws of any particular Country. Both in *Spain* and *England* there are Goods which are prohibited to be exported, and as there is an Intercourse of Trade between the two Nations in *Europe*, the Subjects of *England* may be liable to be punished, if they should export from *Spain* any of the Goods prohibited to be exported by the Laws of that Kingdom, as well as the Subjects of *Spain* may be liable to be punished, if they should export from hence any of the Goods prohibited to be exported by the Laws of this Kingdom. This, I say, may be the Case with Regard to our respective Dominions in *Europe*; and therefore this Case too was regulated by the Treaty of 1667; for by the 15th Article of that Treaty it is stipulated, ‘ That ‘ if any prohibited Goods be exported from the Territories ‘ of either of the said Kings, by the respective Subjects of ‘ the one or the other, the prohibited Goods shall be *only* ‘ confiscated, and not the other Goods; neither shall the Delinquent incur any other Punishment, except he shall carry ‘ out from the Dominions of the King of *Great Britain*, ‘ the proper Coin, Wool, or Fullers Earth of the said Kingdoms; or shall carry out of the Kingdoms or Dominions ‘ of the said King of *Spain*, any Gold or Silver, wrought ‘ or unwrought; in either of which Cases the Laws of the ‘ respective Countries are to take place.’

‘ But, my Lords, as there is no Intercourse of Trade between the Subjects of *Great Britain*, and the *Spanish* Settlements in *America*, or between the Subjects of *Spain* and the *British* Settlements in that Part of the World, therefore there can be no Goods on Board any Ships of the one Nation trading in those Seas, that can be called Prohibited by the other. The very Trade itself is prohibited, and consequently every Shilling’s worth that any *British* Ship can export from the *Spanish* Settlements in *America*, let the Goods be of whatever sort or kind, must be prohibited; and may be seized and confiscated, not because she has got prohibited or contraband Goods on Board, but because she has been concerned in an illicit Trade.

‘ From what I have said, my Lords, it must appear, that no *British* Ship sailing in the *American* Seas, can have any Goods on Board, which the *Spaniards* can call prohibited or contraband Goods; and as they have lately set up such a Pretence, and have seized and confiscated a great many of our Ships on that Account, therefore we ought to have

have insisted upon their waving that Pretence, before we had submitted to treat with them upon any other Article. But suppose the *Spaniards* should say, they do not seize our Ships in the *American* Seas on account of their having prohibited, or contraband Goods on Board, but on account of their having Goods on Board, which are the proper Produce of their Settlements in that part of the World, because they look upon their having such Goods on Board, as an incontestable Proof of such Ships having been concerned in an illicit Trade with their Settlements. My Lords it would be ridiculous in us to admit of this, and still more ridiculous to admit of their searching *British* Ships on the open Seas of *America* upon this Pretence; for they would certainly, soon after, pretend to search every Ship they met with in the *European* Seas, and to confiscate Ship and Cargo, in case they should find any *Spanish* Gold or Silver on Board, because they would say, that her having *Spanish* Gold or Silver on Board, was an incontestable Proof of her having exported it clandestinely from some Part of *Spain*, and consequently that the Laws of their Country ought to take place, according to the 15th Article of the Treaty of 1667. Whereas by that Treaty, and by the Custom every since, no *British* Ship can be searched on the open Seas by any *Spanish* Ship of War; and consequently even those Goods which are prohibited to be exported from *Spain*, cannot be seized or confiscated, after they are loaded on board a *British* Ship, and that Ship fairly out at Sea, unless it should appear by her Passports or Sea-Letters, that they were exported from *Spain*, which is a Case that can never happen; for it can never appear by a Ship's Passports or Sea-Letters, that such Goods were exported from *Spain*; because when they are exported from thence clandestinely, as they must be, no account of them can appear in the Ship's Passports or Sea-Letters; and such Goods, when exported from any other Country, cannot then be called prohibited Goods, by the *Spaniards*; because they appear then by the Ship's Passports or Sea-Letters, not to have been exported from *Spain*, and consequently can neither be seized nor confiscated by the *Spaniards*.

I shall allow, my Lords, that the *Spaniards* have as good a Right to prevent an illicit Trade with their Settlements in *America*, as we have to prevent an illicit Trade with ours. Between these two Cases a Parallel may be drawn, in order to see which of us takes the wisest and the justest Methods for preserving our Right. But I was surprized to hear a Parallel attempted to be drawn between an illicit Trade with the *Spanish* Settlements in *America*, and a clandestine or unlawful Trade upon the Coasts of *Great Britain* and

Ann. 12 Geo. II.
1738-9.

and *Ireland*. • In the former there is no Intercourse of Trade allowed to Foreigners: No foreign Ship can enter any of their Ports, but in Cases of the greatest Necessity; therefore it is easy to prevent an illicit Trade, without any severe Precautions: To which I must add, that as there is no Convenience of Land-Carriage from the By-Creeks and Corners of their Coasts to any of their great Towns, no illicit Trade can be carried on, but at Places near some of their great Towns, and there it would be easy to prevent it, by proper Officers and proper Regulations at Land: Nay, even one of their own Governors was of Opinion, as appears by a Letter of his, which was read at our Bar, that it would be easy to prevent an illicit Trade, by proper Precautions at Land, without employing one *Guarda Costa* at Sea. Whereas in *Britain* and *Ireland* there is a free Intercourse of Trade allowed to all Foreigners, and convenient Land or Water-Carriage from every By-creek and Corner of our Coasts, to many populous Cities and Villages; and therefore, it is so easy for Foreigners, as well as our own Subjects, to run prohibited or uncustomed Goods in upon us, or to steal our Wool or Fuller's-Earth away from us, that it is absolutely necessary for us to take Precautions, both by Sea and Land, against such Practices.

• However, my Lords, notwithstanding the Difficulty we labour under in this Case, let us but consider the Laws we have made against exporting of our Wool, and against Smuggling, and we shall find, that no foreign Nation can have the least Ground to complain of them, nor can any Foreigner suffer by them, unless he is really guilty, or very much to blame. We have, 'tis true, very severe Laws against the Exportation of our Wool, and we have Guard-ships appointed on purpose, and instructed to seize all Ships exporting that valuable Commodity to foreign Parts; but those Guardships never pretend to search or seize any foreign Vessel, unless they have a full Proof, or very great Cause of Suspicion, that she has Wool on board, which was actually exported, or carried out to her, from some Part of *Britain* or *Ireland*. And as to those Laws that have been made against Ships hovering within two Leagues of our Coasts, they are so limited, that it is hardly possible any Foreigner can suffer, unless he has a real Design to smuggle; for, even by the last Act that was made against such Ships, which is the most severe, I mean the late famous smuggling Act, passed but about three Years since, the Vessel must have Tea, or foreign Spirits on board, and those Spirits must be in Casks under sixty Gallons; and farther, she must not only appear to be hovering, but also it must appear, that she did not proceed on her Voyage, Wind and

and Weather permitting, and without the Master's being able to shew, that she was detained, or prevented from proceeding, by any necessary Cause whatsoever.

Ann. 12 Geo. II.
1738-39.

' But, my Lords, lest some of the *Spanish* Advocates in this Country should, from these Laws, pretend, that we may allow the *Spaniards* to make free with such of our Ships as they find sailing within two Leagues of their Coasts in *America*, I must take notice of some very material Differences between the *British* and the *American* Seas. In the first place, I am sure no Man that has a true *British* Heart, will allow the *Spaniards* to usurp such a Dominion over the *American* Seas, as we have a just Right to over the *British*. And, in the next place, I must observe, that no foreign Ship, not bound for any of our Ports, can have the least Occasion to come within two Leagues of any Part of our Shore, and much less to hover within two Leagues of our Shore, unless she has some bad Design; but, on the contrary, as our Coasts are flat, and full of Sand-banks, every fair Trader will endeavour to keep above two Leagues from our Shore. Whereas, there are none of our Ships that come from *Jamaica* to *Britain*, or that are bound from thence to any of our Colonies upon the Continent of *America*, but must steer their Course close in with the Shore of the *Spanish* Islands of *Hispaniola* or *Cuba*: The Reason of this is, because the Course from *Jamaica*, by the Windward Passage, is much safer than that by the Gulph of *Florida*; therefore it is chosen by all Ships coming from *Jamaica*, if they can possibly make it; but as the Trade-Winds are almost directly in their Teeth, they are obliged to keep close in with the *Cuba* Shore, because there is a Land-Breeze comes off from that Island, which greatly assists them in their Course, and without which it would be impossible for them to make the Windward Passage. And even when they find they cannot make the Windward Passage: When they find they must bear away for the Gulph, they must, for many Leagues together, sail along the *Cuba* Shore; and as they are obliged, after they pass *Cape St. Antonio*, upon the West End of the Island of *Cuba*, to turn up against the Trade-Winds, they are under a Necessity of keeping close in with the *Cuba* Shore, in order to take the Benefit of the Land-Breezes from that Island; for otherwise they would be in great Danger of being forced by the Trade-Winds and the Currents, either into the Gulph of *Mexico*, or upon the *Martiques*; the Danger of which has been confirmed by Experience; for it was proved at our Bar, that two Ships were lost but last Year, because they, in their Course, kept farther from the Shore of *Cuba* than usual, in order to avoid the *Guarda Costa's*, by which

Ann. 12 Geo. II.

1738-9.

Means they were both drove upon the *Martinet* and lost. But this is not all, our Ships must not only keep close in with the *Cuba* Shore, but when they are endeavouring to make the Windward-Passage, they are often obliged to hover near that Shore, or the Shore of *Hispaniola*, for two or three Weeks, when the Trade-Winds blow hard, in order to wait for a Calm, that they may thereby have an Opportunity of making that Passage.

' This shews, my Lords, that we cannot allow the *Spaniards* to search our Ships within any Limits at Sea, even though they should be found hovering upon their Coasts; and they have made so bad an use of the Power they have lately usurped, that we have, I am sure, no Reason to give them a Right to that Power by Treaty, under any Limitations whatever. But farther, it is a Power they have no Occasion for, unless it be to injure and interrupt our Trade; for their Coasts are not like ours in *Britain* and *Ireland*: They are not full of Inhabitants, and fishing or trading Villages at every Creek: They have no Inhabitants, but in, or near their great Towns, therefore no illicit Trade can be carried on but in their Ports, or at some Creek very near them; and there it is impossible to carry on any illicit Trade, but by the Connivance of the *Spanish* Governor, which is generally purchased by illicit Traders, in which Case the *Spanish* *Guarda Costa's* dare not touch them; so that these *Guarda Costa's* can be of no real Use, but to molest and plunder, or seize, under frivolous Pretences, those foreign Ships, that have no Design to carry on an illicit Trade with the *Spanish* Settlements, and therefore will not be at the Expence of, making Presents to *Spanish* Governors.

' I hope, my Lords, I have now made it appear, that no Regulations can be settled between *Spain* and us, for preserving the Right they have to exclude Foreigners from carrying on any Trade in their Settlements in the *West-Indies*. They may lay what Penalties and Forfeitures they will upon their own Subjects in that Part of the World: They may even lay what Penalties and Forfeitures they will, upon those *British* Subjects that shall come within their Territories, contrary to the Treaty 1670; but they can lay no Penalty or Forfeiture on, nor can they subject to their Regulations, any *British* Ship or Subject that does not come within their Territories in *America*, which we cannot allow them to extend beyond the Limits of their Ports, Havens, and inhabited Creeks, unless we have a Mind to yield up to them the Sovereignty of the *American* Seas, which I hope no *British* Minister will dare. Therefore, I cannot comprehend what our Plenipotentiaries have to regulate, with relation to our Trade and Navigation, unless they are to regulate and restrain

strain (for every Regulation must be a Restraint) our Right to a free Navigation in the *American Seas*; or our Right to carry in our Ships, whatever Goods or Merchandize we please, from one Part of his Majesty's Dominions to another. From hence it is evident, that this Convention is so far from being agreeable to the Resolutions of this House last Session, that it is directly contrary to them; for which Reason, it ought certainly to be some way amended.

Ann. 12 Geo. II.

1738-9.

' But to me, my Lords, no Amendment can be of any Signification. I shall be against the Motion, however amended: The Convention I cannot approve of in any Shape, or in any Words: I have shewn it to be a most dishonourable and destructive Treaty, and therefore, if any Motion had been made for censuring it, I should have most heartily concurred; but as no such Motion is now before us, I shall satisfy myself with giving a Negative to the present Question. In this, I hope to have a Happiness I have been for many Years very little accustomed to: I hope to have the Concurrence of a great Majority of this House; for surely, no Lord that hears me, can be under the least Difficulty in joining with me upon this Occasion. If the Question had been for censuring this Treaty, bad as it, some Lords might have found themselves under Difficulties: They might, perhaps, have been unwilling to censure what has been done by their Friends; but no Rule of Friendship can lay them under a Difficulty in giving their Negative to the present Question. It is only refusing to approve of what they think does not deserve their Approbation; and to approve with our Lips, of what we in our Hearts despise, is the Part of a Flatterer, not of a Friend.'

The Earl of Cholmondeley.

' My Lords, As I am far from having the least Doubt of our Right to a free Navigation in the *American Seas*, or of our Right to carry in our Ships what Goods or Merchandize we think proper, from one Part of his Majesty's Dominions to another, I very much approve of what the noble Lord that spoke that last hath said in Vindication of these our Rights; but from his having been at the Pains to say so much in their Vindication, I am persuaded the *Spaniards* may have something to say against them, or at least that they may have some Reasons to offer, why we should agree to their being laid under some Regulations, in order to secure them against an illicit Trade's being carried on by our People in their Settlements; and this convinces me, that our Disputes upon this Subject, were of such a nature, as could

Ann. 12 Geo. II.
1738-9.

not be fully settled by a preliminary Treaty.. It must require some time to convince the *Spanish* Court, that these our Rights can admit of no Regulations, especially, as it is the Interest of the *Spanish* Governours and Captains of *Guarda Costa's* in *America*, to insist upon it that they may; and as there is nothing in the Convention now before us that can in the least derogate from either of these Rights, I am far from having such an Opinion of it as some noble Lords have been pleased to express. On the contrary, I think it the most we could expect in so short a time, and therefore, I thought the least I could do, was to move for an Address in the Terms I have taken the Liberty to propose.

' If this were a solemn and definitive Treaty, my Lords, there might be some Reason for saying, that it did not come up to our Resolutions and Address of last Session; but as it is only a preliminary Convention, and as by this Preliminary his Majesty has obtained, by peaceable Measures, a Part of what was recommended to him last Session, I mean Reparation for our Losses, and has, in my Opinion, laid a Foundation for obtaining, by the same Means, all that was recommended to him; I think he deserves Thanks from every Man who delights in Peace, or wishes Prosperity to the Trade and Navigation of *Great Britain*. From such, I say, he deserves Thanks; and he deserves it the more, on account of his having obtained those Terms by peaceable Measures: For though the fitting out of Squadrons may be called Warlike Preparations, they cannot be called Warlike Measures; and whatever other Lords may think, I shall always be of Opinion, that, in time of Peace, as well as in time of War, the Courts we negotiate with will have the more Regard to what we propose, when they know we are ready to back our Proposals with a well disciplined Army, and a powerful Fleet to convey that Army wherever we have a Mind. We can, 'tis true, raise Armies, and fit out Squadrons whenever we please, but we can do neither in an Instant; and when Foreign Powers know that we have none such ready, they will of course suppose, they may have time to prepare for their Defence, before we can be in a Condition to attack them; which will render them less pliable than they would be, if they knew that the immediate Consequence of their Refusal would be a powerful Invasion from this Kingdom, upon some Part of their Territories.

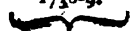
' For these Reasons, my Lords, I do not think the Motion I have made stands much in need of any Amendment; but if the noble Lord that spoke last, or any other Lord, will please to propose an Amendment, I shall willingly agree to it, unless it appear to be a very unreasonable one; for all that

that I propose, my Lords, is, that we should make such a Ann. 12 Geo. II.
 Compliment upon the present Occasion to his Majesty, as 1738-9.
 has always been usual when any Treaty, Convention, or Ne-
 gotiation has been laid before this House by the King's Or-
 der. This, I think, is upon all such Occasions necessary ;
 but, upon the present, I must think it more necessary than
 upon most others ? because his Majesty's Success, with re-
 gard to the solemn and definitive Treaty, which is to be con-
 cluded in pursuance of this preliminary Convention, must en-
 tirely depend upon the Respect shewn to his Majesty by his
 Parliament, upon this Occasion.'

The Earl of Chesterfield.

' My Lords, I very little mind the Address proposed, or Earl of Chester-
 any Address that can be proposed upon this Occasion : Nor field.
 am I under the least Concern, whether you amend it or no ;
 for I shall be against it, however amended. I think this
 Convention the most inglorious, the most pernicious, that
 this Nation ever made ; and therefore I shall be against any
 Thing that may seem to insinuate the Approbation of this
 House. We are sworn to be faithful Counsellors to his Ma-
 jesty, and I think it would be deceiving him, it would be a
 Breach of our Honour, a Breach of our Oath, to present to
 his Majesty an Address that may bear the most distant Resem-
 blance of an Approbation of such a Treaty. I do not know
 who were the Authors of it ; and therefore I cannot con-
 demn the Convention because of the Authors ; but I must
 condemn the Authors, be who they will, because of the
 Convention. But, my Lords, though I do not know who
 were the Authors, I know who were not : I know his Ma-
 jesty was not : I know he would never have approved of it,
 if Matters had not been egregiously misrepresented to him.
 It is not, my Lords, to the King, we are to shew our Re-
 spect by an Address upon this Occasion : It is to his Mini-
 sters ; for I must always look upon Addresses that seem to
 insinuate an Approbation of public Measures, as Addresses
 made to the Ministers who advised and conducted those
 Measures. It is not therefore to the King, but to his Ministers,
 that we are to shew our Respect upon this Occasion ; and
 the only Method, by which we can regain from foreign Na-
 tions, that Respect which is due to this, and that which we
 have forfeited by our late Conduct, especially by our agree-
 ing to this Convention, would be to shew no Respect to those
 that made it, but to censure it, and then address his Ma-
 jesty, to know who had advised it. This would be shewing
 a due Respect to our Sovereign, and a due Respect to our

Ann. 12 Geo. II.
1738-9.



own Honour. As for our Success, with regard to the solemn and definitive Treaty, that is to be concluded in pursuance of this preliminary Convention, I hope we shall have none; I would disappoint it if possible; for I am sure it is impossible to obtain an honourable Treaty, in pursuance of such a dishonourable Preliminary.

‘ Last Session of Parliament, my Lords, we strengthened the Hands of the Crown in a most extraordinary Manner: We put it in the Power of the Crown to obtain Satisfaction, Reparation, and Security, by force of Arms, if they could not be obtained by peaceable Means; but no proper Use has been made of the extraordinary Powers we then granted. Great Fleets have, indeed, been fitted out: The Nation has been put to great Expence, our Seamen harraß’d, and our Trade interrupted: From these mighty Preparations the Nation expected great Things; but the *Spaniards* knew better: They knew the Instructions given to our formidable Squadrons; or at least they judged of them from former Experience. They knew our Fleets were directed by the same Councils they have been for several Years past, and therefore they concluded, they were furnished with the same harmless Instructions. We had before sent a Fleet to *Carthagena*, where it lay peaceably for several Months, an Overmatch for *Spain*, but an unequal Match for the Worms and Climate. We had before sent a Fleet to *Gibraltar*, when it was actually besieged by the *Spaniards*; but that Fleet was not to attack or annoy them: No, it was so civil as to open to Right and Left, and let Provisions pass through for the Enemy’s besieging Army: Nay, it seems, they had Instructions not even to protect our Trade; for some of our Merchant-Ships were taken under their very Nose.

‘ Our Fleets sent out last Summer, my Lords, now appear to have had the same sort of Instructions. We may judge of the Instructions given to that sent to the *West-Indies*, from an accident that happened. One blunt *English* Captain that was sent out upon a Cruise, imagining that his Country was not put to the Expence of sending out Fleets to do nothing, happened to meet with a *Spanish* Register-Ship, which he took and brought into *Jamaica*, as a lawful Prize; but the Commodore knew the Secret: He knew we were not to take, but in the most humble Manner to sue for Satisfaction and Justice; and therefore he ordered the Captain not only to set his Prize at liberty, but to convoy her back, with great Respect, to the Latitude in which he took her. Our Squadron sent to the *Mediterranean* could have no warlike Instructions; because they could do no harm to *Spain*, unless it had been to make Prize of some of their Fishing-Boats,

or

or Coasting-Barks: They had no Land-Forces on board, nor were provided with any Thing proper for annoying any *Spanish* Town or Village upon the Sea Coast. None of our Fleets therefore could give the least Weight to our Negotiations: They could serve for nothing, but to confirm the *Spaniards* in the contemptible Opinion they have long entertained of us; and the Consequence we find is agreeable. We have obtained no Satisfaction for the many Indignities that have been put upon us: It does not appear that we ever asked for it. We have obtained no Reparation for our Losses, but what was before agreed to by *Spain*, or what one Part of our own People must make to the other. And we have obtained no Security for our Trade or Navigation: That we have left entirely to our Plenipotentiaries; and they are such Plenipotentiaries, as, I believe, no Nation in the World would have trusted with an Affair of such Consequence; for I do not know that either of them has one Shilling's worth Estate in any Part of his Majesty's Dominions, to answer for any Malversations or breaches of Faith they may be guilty of.

I am surprized any Lord should imagine, we have got as ample Satisfaction as we could insist on. My Lords, the Word *Satisfaction* ought not to be mentioned by any one that talks in favour of this Convention: We have got none. Has *Spain* agreed to punish or deliver up any one of its Governors or Captains, that have so cruelly used our Seamen? This alone can be called Satisfaction; and this we were afraid to ask. We have not so much as got, by this Convention, any Reparation for our Losses; and yet we have by this Convention given the *Spaniards* a general Release. My Lords, I shall shew that we have got no Reparation, but what *Spain* had before agreed to give, or what one Part of our own People must make to the other; and in order to do this, I must examine the just Demands, which, 'tis said, *Spain* had upon us. The only Demands I ever heard of are, that which relates to the Ships we took from them in the *Mediterranean* in 1718; and that which relates to the Ship they call the *Santa Theresa*, which was seized at *Dublin* in 1735. If there are any other, I wish the noble Lords who talk so much in favour of the Convention, would mention and explain them.

Now, my Lords, with regard to the Ships we took from them in 1718, I must insist upon it, that they were justly taken, and were lawful Prize. But as we, by the Treaty in 1721, agreed to restore them, let us examine the Words of that Treaty, in order to see whether we have not long since complied, as far as we were obliged, with the Terms of that Treaty.

Ann. 12 Geo. II.
1738-9.

Treaty. The Words of the 5th Article of that Treaty are,
 ‘ That his *Britannic* Majesty shall cause to be restored to his
 ‘ Catholic Majesty, all the Ships of the *Spanish* Fleet which
 ‘ were taken by that of *England*, in the naval Battle fought
 ‘ in the Seas of *Sicily* in 1718, with the Guns and other E-
 ‘ quipage, in the Condition they are at present, or else the
 ‘ Value of those that may have been sold, at the same
 ‘ Price that the Purchasers shall have given.’ These are
 the Words of the Treaty; and in pursuance of this, his Ca-
 tholic Majesty sent Commissaries to *Port Mabon*, where all
 these Ships were, except one, for I never heard that any
 more of them were sold; and the Ships were accordingly,
 by his Majesty’s Orders, offer’d to be deliver’d to these Com-
 missaries, with their Guns and other Equipage, in the Con-
 dition they were then in, which was all we were obliged to;
 but the Commissaries refused to accept of them, because they
 were in a decayed Condition, and unfit for Service. There-
 fore, if these Ships were not restored, it was the King of
Spain’s own Fault; for we performed all that was incum-
 bent upon us, by the Treaty of 1721; except as to what re-
 lated to the Ship that had been sold, and that Ship having
 been sent to *Spain* by those that purchased her, after they
 had fitted her up for Service, at a very great Expence, the
Spaniards thought fit to seize her, by which they gave us a
 Claim upon them, instead of their having any upon us, on
 account of that Ship; for we were obliged to account for
 her only at the Price at which she was sold, whereas, when
 they seized her, she was worth a great deal more.

‘ From hence it appears, my Lords, that they could have
 no just Demand upon us, on account of any Obligations we
 laid ourselves under by the Treaty 1721. And with respect
 to the Ship they called the *Santa Theresa*, it is well known,
 that she was one of those many *British* Ships that have been
 of late most unjustly seized and confiscated by the *Spaniards*;
 and as she happened to be sent upon a Voyage to *Dublin* by
 some *Spanish* Merchants, the former Owner being there at the
 time, immediately discovered her to be his Ship; and he ha-
 ving applied to the Government there, and fully proved his
 Property, we could not refuse to do justice to our own People
 in our own Ports; though we have for many Years neglect-
 ed to obtain Justice for them from the *Spaniards*; but if we
 consider the Convention, we shall find, that the Value of this
 Ship is not to be included in the 60,000 *l.* Demand, which
 they make upon us; for, by the second separate Article, this
 Ship is to be referred to the Plenipotentiaries, and if they
 should give it against us, the Value of her is still to be ac-
 counted for, or to be allowed in whole, or in part, as a Com-
 pensation

penation for the *British* Ship called *The Success*, the Resti- Ann. 14 Feb. 1738-9.
tution of which is stipulated by the same Article.

‘I hope I have now shewn that the *Spaniards* had no just Demands upon us ; and therefore, I cannot comprehend how any Lord can talk of the mutual Demands that were between the two Nations, My Lords, there were no mutual Demands : The Demands were all of our Side : We had taken great Care they should have no Demands upon us ; for to our Christian Patience and long-suffering, we added a Christian Sort of Revenge. We heaped Coals of Fire upon their Heads, by returning them many good Offices for many Injuries received ; but whatever Christianity may teach with regard to private Life, I am sure it inculcates no such Doctrines with regard to the Behaviour of Nations or Governments towards one another ; and I have good reason to believe, that those who have been the chief Authors of our political Tameness and Submission, were no way influenced by any Christian Motives.

‘I shall now, my Lords, consider the Demands we had upon *Spain* ; and here I must observe, that the Demands of our Merchants for Ships plundered or seized by the *Spaniards*, before our Commissaries returned from *Spain*, which is three or four Years since, amounted to above 400,000 *l.* which Sum was reckoned as the Value of what was taken or plundered at prime Cost ; for if our Merchants had valued it at what they might have sold the Cargoes for at Market, it would have amounted to above 500,000 *l.* besides the Damages they suffered by the Interruption of their Trade, raising the Premiums upon Insurance, and loss of Ships, two of which we had an Account of from the Gentlemen that were examined at our Bar, besides many others that were never heard of ; some of which, there is great reason to suspect, were taken by *Spanish Guarda Costa's*, and the Ships, with every living Soul on board, sent to the Bottom of the Sea, after those Pirates had gutted them of all they thought fit for their purpose. Therefore, the Amount of our real Damages, and consequently of our real Demands upon *Spain*, at the time our Commissaries left that Kingdom, was at least 500,000 *l.* Sterling ; and as the *Spaniards* have taken and plundered a great many of our Ships since that time, our Demands upon them for Damages, without reckoning Costs, must have amounted to a great deal above 500,000 *l.* at the Time we began to negotiate this Convention ; for if to this we should add our Costs, I mean the extraordinary Expence the Nation has been put to by their obstinate Refusal of Justice, our Demands upon them at that time, would amount, I believe, to at least a Million Sterling, without one Shilling's Worth

Ann. 12 Geo. II.
1738-9.

Worth of a just Demand upon their Side ; and this whole Demand we have, by this Convention, released, for the Sum of 27,000 *l.* which is less than the King of *Spain* himself had allowed (before this Convention was thought of) to be justly due to us, as I shall presently make appear.

' My Lords, the Value put by our Commissaries on the Demands of our Merchants, is what I have not the least Regard to. They seem to have been *Spanish*, and not *English* Commissaries. 'Tis true, they reduced the Demands of our Merchants to 200,000 *l.* but they had not the least Reason for what they did. . One of them that was examined at our Bar, could not give the least Shadow of Reason* for making any Reduction, and much less for making such an extraordinary Reduction. From what he said, we may judge how they lumped Things in Favour of *Spain*. He told us, that for about twenty Sloops, that even they allowed to have been unjustly seized, they lumped them at 100 *l.* a-piece, though every one knows, that no Sloop, proper for sailing on Seas where Tornado's, Tempests, and Hurricanes are frequent, can be built and fitted out for 100 *l.* without reckoning the Seamens Cloaths, Provisions, and other Things that must be on board. From hence we may see, they were resolved to reduce the Demands of their Countrymen as low as possible. From whom they could have Instructions for this, I cannot imagine : I am sure it was not from his Majesty ; and if they received such Instructions from any of his Ministers, they ought not to have complied with them : It was betraying his Majesty, and sacrificing the Interest of his People, to the selfish Views of some of his Ministers.

' But even this Sum of 200,000 *l.* the Court of *Spain* was resolved, it seems, not to make good ; and as our Ministers were, it seems, resolved to have a Treaty at any Rate, it became necessary for them to reduce this Sum : For this purpose, we have allowed of a Demand of 60,000 *l.* which the *Spaniards* made upon us, though they had not, as I have shewn, the least Pretence for making such a Demand. This reduced the 200,000 *l.* to 140,000 *l.* Well, but even this Sum of 140,000 *l.* the Court of *Spain* refused to pay ; therefore we allowed them to deduct 45,000 *l.* for prompt Payment. Whatever other Lords may think, I must think, an Allowance of near one third of the Sum due, is a pretty extraordinary Allowance for prompt Payment ; especially, when that which is called prompt Payment, is only a promise to pay in four Months. I have often, my Lords, heard of an Allowance made for prompt Payment, when Money is paid before it is due by Law or Custom ; but I never heard that the Creditor made an Allowance for prompt Payment when

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he gave his Debtor four Months Forbearance: The Allowance is then generally of the other Side. This was the Case between *Spain* and us. The Money was due, and immediately payable both by Law and Custom; therefore they should have made us an Allowance for Forbearance, instead of our making them an allowance for prompt Payment. What Necessity, what Obligation, could we lie under to accept of Assignments upon his Catholic Majesty's Revenues in *New-Spain*? It would have been ridiculous to accept of any such; because we knew, by Experience, they were good for nothing.

‘ However, my Lords, every Pretence was to be admitted, that could be made, for diminishing the Sum due to us from *Spain*: Therefore this Allowance for prompt Payment was admitted of, and this reduced the 140,000 *l.* to 95,000 *l.* But still this Sum was too large: The Court of *Spain* would not so much as promise to pay even this Sum; therefore, what our Negotiators had already allowed, for what I know, prompted them to set up a most unjust Claim of 68,000 *l.* against our *South-Sea* Company; and though the *Spaniards* are, by their own Acknowledgment, indebted to our *South-Sea* Company in a much larger Sum, yet it was agreed, that this 68,000 *l.* should be immediately paid by the Company to the King of *Spain*; and this immediate Payment was made the fundamental Article of the Convention; for the King of *Spain*'s Protestation, or Declaration, I must, and I am convinced the Court of *Spain* will, consider as a Condition *sine qua non*; and our agreeing to accept of any Treaty under such a Condition, is the more extraordinary, for that it was done by one who was the Company's Servant, and at that very Time entrusted with the Management of their Affairs at that Court.

‘ We may now see, my Lords, what Reparation the King of *Spain* has, by this Convention, agreed to make us. He has agreed to make a stipulated Payment of 95,000 *l.* to us in four Months, provided our *South-Sea* Company make an immediate Present to him of 68,000 *l.* so that he is to pay to us but 27,000 *l.* out of his own Pocket, which is a less Sum than he had acknowledged to be due to us, before this Convention was thought of; because, before this Convention was thought of, he had acknowledged, that the five Ships, mentioned in the 4th Article, were unjustly seized, and had actually sent Orders to *New-Spain* for their Restitution; and the value of these five Ships will, I am sure, amount to more than 27,000 *l.* Nay, if in pursuance of these Orders they have been restored, which, indeed, I believe, we have no Reason to apprehend, I do not know but we may be brought 4 or 5000 *l.* in Debt; for by that Article, the whole, or

Ann. 12 Geo. II. any Part of them, that shall appear to have been restored,
 1738-9. is to be repaid by us.

‘ Let us now see, my Lords, what Reparation we have obtained, by this Convention. Our plundered Merchants are, indeed, to have 155,000*l.* divided among them, the Salaries, Fees and Perquisites of those who are to make the Division, being first deducted; and this they are to have as a full Satisfaction for their Damages, which amount to more than 500,000*l.* But how is this 155,000*l.* to be raised? Why 60,000*l.* of it, must be raised by a Tax upon our own People, or by making a new Encroachment upon our sinking Fund; 68,000*l.* another Part of it, is to be raised by, or rather taken by Violence from our own *South-Sea* Company; and the remaining 27,000*l.* is to be paid to us by the King of *Spain*, which is a less Sum than he had acknowledged to be due to us, before this Convention was thought of. I beg pardon, my Lords, for detaining you so long upon this Head; but as this Treaty seems to have been artfully calculated for palming a sham Reparation upon the Nation, I was obliged to examine it to the bottom, in order to detect the Artifices that have been made use of for covering the Deceit.

‘ Now, my Lords, with regard to our future Security, we have been so negligent of it in this preliminary Treaty, that we have not so much as obtained from the *Spaniards* a Suspension of their wonted Depredations. Where *Spain* is to be a Gainer by a Suspension, there it is expressly stipulated; but where we are to be Gainers, it is entirely neglected. We have promised to suspend all Fortifications and Improvements in *Georgia* and *Carolina*; but *Spain* has not promised to suspend searching our Ships, and confiscating them upon frivolous Pretences. For this Neglect, a learned Lord has found out a most ingenious Excuse: He has told us, that if we had stipulated any such Suspension, it would have imported an Acknowledgment of their Right to search and confiscate. How this may be in Law, I do not know; but I do not think it agreeable to Common Sense. I cannot think, that my exacting a Promise from a Man to suspend doing me an Injury, is the least Acknowledgment, that he has a Right to do me an Injury. But if a Suspension could be any way understood to be an Acknowledgment of their Right to search and confiscate our Ships, the allowing them to continue the Practice, must be a more direct, and, I am sure, a more hurtful sort of Acknowledgment. Therefore, I must look upon this Neglect in the preliminary Convention, as a bad Omen, with respect to the definitive Treaty. The Time, it is true, in which this

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definitive Treaty is to be settled, is but eight Months : They Ann. 22 Geo. 2.
 cannot, perhaps, do us any great Injury in that Time ; but, 1732-3.
 that Term may be renewed, may be often renewed, I be-
 lieve it will be renewed from Time to Time, as long as
 some People have any Influence in our Councils ; for I do
 not believe it will ever be in their Power to make the *Spaniards*
 give up any Right they pretend to ; and no *British*
 Minister will ever dare to grant them, by a solemn Treaty,
 a Right to search *British* Ships on the open Seas, or a Right
 to prescribe to his Majesty's Subjects, what sort of Goods
 they shall be allow'd to carry in their Ships from one Part
 of his Majesty's Dominions to another. For this Reason, I
 do not know, but that our Negotiations for a definitive Trea-
 ty may last as long as our Negotiations for this Preliminary
 have continued, which I must look on to be at least ten
 Years ; for these Renewals or Continuations may be safely
 agreed to, because they will not be much taken notice of, or
 resented by the People ; and during that whole Time, the
Spaniards are to continue to exercise a most unjust Encroach-
 ment upon us, while we must continue to suspend the na-
 tural Right we have to fortify and improve our own Do-
 minions.

' As for the Pretence, my Lords, that the *Spaniards* have
 given up their Right to search or confiscate our Ships, and
 have acknowledged themselves in the Wrong, by agreeing
 to pay us Damages and Costs, I have already shewn that
 they have not agreed, by this Treaty, to pay us any Da-
 mages, but what they had before acknowledged to be due ;
 and I was surprized to hear a learned Lord, who certainly
 understands what is meant by Damages and Costs, so far
 mistake the Matter, as to say, the *Spaniards* have agreed to
 pay Costs. Our Costs are the Expences the Nation was
 put to in Warlike Preparations last Summer, which the *Spaniards*
 have not agreed to pay one Shilling of ; for whether
 those Preparations are to be called Warlike Measures or not,
 they certainly cost us a great deal of Money ; and in all Na-
 tions but this, they look mighty like War : Even in this,
 till within these twenty Years, they have generally been the
 certain Harbinger of War ; and will be so again, as soon as
 we begin to have a Regard to our Character Abroad, or our
 Oeconomy at Home

' My Lords, I have this Day, and upon this Occasion,
 heard a Distinction made by a learned Lord, between a
 Right, and the Enjoyment of a Right. What the noble
 Lord meant by his Distinction, I cannot comprehend : for it
 is a Distinction which, I confess, I do not understand. I am
 sure no Right is good for any thing unless it be enjoy'd, not
 farther

Adm. 12 Geo. III
1738-9.

by our Plenipotentiaries. My Lords, if we agree to regulate them, we grant them ; and if we grant them under any Regulations, we can no longer pretend to a free Navigation or Commerce in the *American Seas* : Therefore, my Lords. I must look upon this Article as an artful, or indirect Surrender, (I shall not give it the Name it deserves) of the most undoubted, and the most valuable Rights of the People of *Great Britain*. The learned Prelate who spoke some time ago, and the learned Lord who spoke since, have, indeed, upon this Subject, shewn themselves excellent Advocates for *Spain* : I hope the *Spanish* Plenipotentiaries will neither have so much Eloquence, nor so many Arguments ; for, if they have, as I have no very great Opinion of the Capacity or Qualifications of our own, I am afraid we shall come off with the worst. But their Arguments in favour of *Spain* have been so fully answered by the noble Duke that spoke after the Reverend Prelate, and the noble Lord that spoke last but one, that I need not, if I could, add any thing to the Answers they have made ; therefore, I shall only wish, that our Plenipotentiaries had been here to have heard them, in order that they might have learned how to defend the Cause of their Country against the most artful Arguments that can be made use of by its Enemies.

‘ The only other Right now in dispute between *Spain* and us, that seems to have been taken the least Notice of in our late Negotiations, is our Right to *Georgia* and *Carolina*. This, the noble Lord who spoke last but two, has represented as a Dispute about Limits only ; though every one knows, the *Spaniards* have lately begun to dispute our Right to *Georgia*, and even to a great Part of *Carolina*, particularly our Right to the former, which they so peremptorily deny, that they would not allow the Name to be so much as mentioned in this Convention ; and as we have lately given that Country the Name of *Georgia*, not only by Charter, but by Authority of Parliament, our accepting of an Article about the Regulation of Limits, without mentioning our frontier Province, will, I am afraid, be considered by the *Spaniards* as a Surrender of that Province. We may, if we will, give up *Georgia* ; we may give up *South Carolina*, and yet say, that the only Dispute between *Spain* and us was about Limits ; because the *Spaniards* insisted, that the River *Podie*, upon the Borders of *North Carolina*, was the proper Limit between *Florida* and *Carolina* ; whereas we insisted, that the River *Altamaha* was the proper Limit. This, I say, might be called a Dispute only about Limits ; but, if we should give up all the Country lying between these two Rivers

Rivers; if we do not give up a Right, I will say, we give up a very valuable Possession. Ann. 12 Geo. II.
1738-9.

‘I have now shewn, my Lords, that by this Convention we have obtained no Reparation; and that, so far from obtaining future Security, we seem to have, in some Measure, given up every thing; upon which our future Security can be founded. What, then, could induce us to accept of such an unsatisfactory, such a dishonourable Preliminary? Which is a Question that leads me of course to consider the present Circumstances of *Europe* in general, and of this Nation in particular. This, my Lords, I confess, is a Subject which I touch on with Reluctance; because, I am sure it can afford no great Comfort, either to the Speaker, or to the Hearer. The State of our Affairs, both at Home and Abroad, I shall grant, is dismal enough; but I am sorry to hear it made more dismal than it really is, for the sake of justifying an inglorious Treaty, or a dastardly Submission to the most provoking Insults. The Affairs of *Europe* are, indeed, at present, in a Situation not very favourable for this Kingdom; but what is this owing to? It is owing, my Lords, to a ridiculous Notion we took up about fifteen Years ago, of the overgrown Power of the House of *Austria*: A Notion that could be instilled into us by nothing but *French* Councils; and who were the chief Propagators of this pernicious Notion, we may well remember. This Notion produced the Treaty of *Hanover*: A Treaty calculated for dissolving an Alliance, which we ought to have cultivated and strengthened with all our Art; because it could be prejudicial to no State in *Europe* but *France* alone. And this Treaty of *Hanover* drove us into that long Chain of Negotiations, Treaties and Expence, by which we not only re-united the two Branches of the House of *Bourbon*, but contributed, at our own Expence, to aggrandize them. Our Fleets were employed to give Principalities to one of the Branches of that House: And now we are told, you must not vindicate your Rights, or your Honour, against one of these Branches, because it may be assisted by the other.

‘My Lords, if this Argument proves any thing, it proves too much; if we dare not revenge the Affronts that are put upon us, nor repel the most unjust Encroachments, for Fear of *France*, we have nothing to do but lie down and die. It signifies nothing to put it off by Patch-work, and Expedients, for eight Months longer. But this, my Lords, has been our Method for several Years. Like Builders, that build a House to last only for the Term of their Lease, they build of rotten Materials; and if they can, by Patch-work, keep it up while they are in it, they do not care if it tumbles

Ann. 12 Geo. H.

1738-9.

upon, and crushes the Landlord under its Ruins. A Minister that has no Credit or Character Abroad, nor any Authority or Affection among the People at Home, must have Recourse to Patch-work and Expedients. He can have no Materials, but the rotten Hearts of Sycophants and Time-servers; and these must be kept together, at a great Expence, by temporary Expedients: He neither can, nor will, think of building a solid and lasting Fabrick; but, I hope the Nation will never allow him to build for them; or if they should be so unwise, as to allow him to erect a deceitful Fabrick, that they will pull it about his Ears, before he has Time to enclose them; for if they should allow him to go on, he may so environ them with Ruins, that it will hardly be possible for them to find their Way out.

‘I cannot easily believe, my Lords, that *France* will assist *Spain* in putting a Yoke upon us, that may afterwards serve as a Precedent for putting the same Yoke upon themselves. The Court of *France* is seldom so short in its Politics. I am rather inclined to think, that the Court of *France* will either endeavour to prevail on us to accept of sham Treaties, and a precarious Security, or, in case of a War, that they will endeavour to prevent our bringing it to a speedy Issue, by a vigorous Prosecution. I hope we shall take care not to be directed or dup’d by *French* Councils in either of these Cases; for both will be destructive to this Nation, both will serve the Ends of *France*: A precarious Peace, or a languid War, will keep up a Contention between *Spain* and us; and such a Contention will contribute greatly to establish the Trade of *France* upon the Ruins of the Trade of this Nation. But suppose these two Nations should unite against us, and that we have negotiated ourselves out of every Alliance that can give us any Assistance; yet still we must do the best we can. By a wise and vigorous Conduct we might make both of them repent of their Undertaking. They both depend greatly upon their Trade and Territories in the *West-Indies*, where we may be Masters if we will; and though they have both of late got great Additions of Power by our Blunders, yet they must not pretend to prescribe to all the Powers of *Europe*. Such an Attempt would bring back to us those Allies, whom we have detach’d by our late Conduct; and in that Case, a Confederacy might soon be formed, that would be able to prescribe Laws both to *France* and *Spain*, instead of receiving Laws from them. The present Aspect of Affairs in *Europe* is, ’tis true, dismal enough; but it is not yet so dismal as it was in the beginning of the Year 1702; and every one knows the glorious Success of the Confederacy that was then formed against *France* and *Spain*. But before we can expect any

any Success either in War, or in forming Confederacies, we must take Care to unite our People amongst themselves, and to establish among them a Confidence in the Conduct of those that govern them; which, I am afraid, cannot be done by those who have spread Disunion and Distrust, not only amongst our Allies abroad, but amongst our People at Home.

Our Trade with *Spain*, my Lords, was once a profitable Trade to this Nation: but, as *France* has lately got much into that Trade, it is not near so profitable to us as it was. If it were not for our Plantations, I believe we should be no great Gainers upon the Balance. We shall manage the War but ill, if we do not make more by a War with *Spain*, than we can do by a precarious and interrupted Trade. But if it were otherwise, we cannot preserve our Trade with that Nation, or with any Nation, but by preserving their Esteem and their Friendship; and these we must lose, if we submit tamely to their Insults. These Walls, my Lords, ought to put us in mind of the Methods by which our Ancestors preserved the Trade, and vindicated the Honour of the Nation. These shew it was not by Negotiation, nor by lumping away the just Demands of their Country. I do not know, if there are any historical Looms now at work, but I am afraid our *Spithead* and *Carthagena* Expeditions would make as bad a Figure in a Piece of Tapestry, as they will hereafter do in our Histories.

But I hope, my Lords, we have no such Looms at work: It would be for the Honour of the Nation, if no Memorandum could be preserved of some of our past Transactions; for we must alter our Measures, before we can transmit to Posterity what they can reflect on with Satisfaction or Emulation. If we had taken Example from the Conduct of a Minister in a neighbouring Country, our Affairs both at Home and Abroad, would have been in a very different Situation: By encouraging Trade and Manufactures, by Parsimony in public Expence, by not engaging needlessly in any Brawls, and by vindicating the Honour of his Country with Resolution, when there was Occasion, he has rendered his Country happy, and himself glorious. But we have followed contrary Measures, and by so doing, have brought ourselves into that Distress, which is now made the chief Argument for our agreeing to this inglorious Convention.

However, my Lords, I think the State of our Affairs not yet so desperate, as that it ought to be a prevailing Argument upon this Occasion. I hope I have shewn, that the State of Affairs in *Europe*, is not so bad as it has been represented; and as to our Domestic Affairs, can they improve by submitting to daily Insults, and to Usurpations that must

Ann. 12 Geo. II.

1738-9.

destroy our Trade ? In such Circumstances, can we pay off our Debts, can we preserve our Sinking Fund ? No, my Lords by the Decay of our Trade, our People must every Day become poorer, and less numerous : This will diminish our Consumption ; and this again will of course diminish the annual Produce of our Taxes : We may, by a more rigorous Collection, keep it up to its old Value for some Years ; but it will soon begin to sink considerably every Year ; and this will at last annihilate our Sinking Fund. We cannot therefore propose to pay off our Debt, unless we preserve our Trade ; nor can we pay any Debt, if in time of Peace we must be at the Expence of War, which was our Case last Summer, and may probably be so for many Summers to come ; for if great Armaments and Military Preparations were necessary to procure a Preliminary Convention, surely they will be as necessary for procuring a definitive Treaty ; therefore we must have a numerous Army at Land, and formidable Squadrons, I mean in show, my Lords, at Sea, till this Treaty be concluded and ratified, which I am convinced will not be very speedily. In the mean time, as we have stipulated no Suspension, our Merchants will be plundered, and our Seamen cruelly used by the *Spanish Guarda Costa's* ; which will of course render our People more and more discontented, and at last disaffected. Our People, 'tis true, may become more united ; but it will be against our established Government ; and in that Case, I hope, it will be allowed, that our Domestic Affairs would be in a worse Condition than they are at present, and our Government less able to carry on a Foreign War, than our present Government can be supposed to be.

Our Domestic Affairs may therefore, my Lords, grow worse, but they cannot grow better, by our continuing in such a Warlike Peace, as we have continued in for almost these twenty Years ; and we can expect no other sort of Peace, till we retrieve our Character, and establish our Security, which, I think, can now be done no other Way but by a vigorous and well-conducted War. But suppose, my Lords, the State of Affairs, both at home and abroad, were as dismal as it has been represented by those who have spoke in Favour of this Convention, could this be any Reason for our suing for, or agreeing to such a Treaty ? We were in no danger of being attacked by *Spain* : We were not so much as threatened with any such Attack : We wanted only Satisfaction and Reparation for past Injuries, and Security against future : Therefore we had no Shadow of Reason for agreeing to any Treaty, that did not give us either the one or the other. By this we have obtained neither : We have absolutely released
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and given up the former; and we have rendered the latter Ann. 12 Geo. II.
 more precarious than it was before. If we had made no 1738-9.

Treaty, no Preliminary, *Spain* could only have continued to seize and confiscate such of our Merchant-ships as they could meet with and overcome; and this they may still do, notwithstanding this Treaty. What would have been the Consequence? Suppose the Nation at present absolutely unable to vindicate its Rights or its Honour by Force of Arms, yet we might have waited with Patience till an Opportunity offered, without being exposed to suffer, in the mean time, more than we are now exposed to, notwithstanding this Treaty; and when an Opportunity offered for vindicating our Rights and our Honour by Force of Arms, we could then have insisted upon full Reparation for all Losses, all Damage, all Expence, which we cannot now do; because, by this Treaty, we have given a general Release.

' I shall agree, my Lords, that this Nation can never long want an Opportunity for Revenge against any Nation in *Europe*. This is our Happiness; but this ought to have been an Argument against our granting such a generous Release as we have granted by this Preliminary. Besides, my Lords, it is an Argument some People ought to be ashamed to mention, if they could be ashamed of any thing. It is almost twenty Years since *Spain* set up every Claim against us, they now pretend to: It is almost twenty Years since they have been in a continued and uninterrupted Course of insulting the Nation, plundering our Merchants, and maltreating our Seamen; and 'tis strange, that in so long a time, we could find no Opportunity for Revenge, against a Nation, which no Man will say is by itself an equal Match for this. My Lords, we have had many Opportunities; but we have neglected them all, or have been prevailed on by *French* Councils, or worse, to make use of none of them. We had one about seven Years since, which, it is amazing, we neglected; and the fatal Consequences of that Neglect now begin to appear; but, I'm afraid, they do not yet all appear: If they are not prevented by a change of Measures in this Kingdom, they may prove fatal to *Europe*; as well as to *England*; and they cannot be prevented without an infinite Expence to this Nation, for which those who gave Rise to them, ought, I hope, they will be made to answer.

' This shews, my Lords, that we ought not to have been so ready, I shall not say rash, in approving of Treaties or Negotiations, as we have been for several Years past. We ought to approve of no Treaty without maturely considering its Terms and its Consequences, as also the Necessity there

Ann. 12 Geo. II.
1738-9.

there was for agreeing to it ; for as every Treaty is a new National Obligation, no Treaty ought to be agreed to, without some Necessity for so doing. And, I am convinced, that no Man who maturely considers the Treaty now before us, either in its Terms, its Consequences, or the Necessity there was for our agreeing to it, will approve of it in any Shape. An immediate War is not the necessary Consequence of our refusing to approve of it, by putting a Negative upon this Motion. His Majesty may, nevertheless, wait for a more proper Opportunity of declaring War. But if we should, in any Shape, approve of this Treaty, the Demands which we may justly make, and fully obtain, in case of a successful War, will thereby be greatly diminished ; therefore the Motion which the noble Lord has been pleased to make, will, I hope, be disagreed to.'

The Lord Hervey.

Lord Hervey,

' My Lords, the noble Lords who have spoke before me, have said so much, and have expressed their Sentiments so clearly, in favour of the Convention, that I cannot propose to say any thing new, or to say any thing better, upon the Subject. I shall, therefore, only take notice of some Facts, which, I think, have been mistaken, or misrepresented, by those who have spoke upon the other Side of the Question ; and this I shall do without attempting any Turns of Wit, or any thing of what may be call'd Flowers of Rhetoric. If I were capable of making the best use of such a way of speaking ; if I were as great a Wit, and as great an Orator, as ever appeared in the Assemblies of the ancient *Greeks* or *Romans*, the Respect I have for your Lordships, would prevent my making use of it in this House ; because, such a Method of speaking I take to be fit only for Assemblies that are led by their Passions, and not governed by their Reason.

' Last Session of Parliament, my Lords, we strengthened, 'tis true, the Hands of the Crown, and I hope the present, and every future Session will do the same, when there is the like Occasion ; but we must remember, that though we strengthened the Hands of the Crown, yet at the same time we recommended peaceable Measures ; and therefore the Power we then gave to the Crown, was not to be made use of in any hostile Manner, as long as there were Hopes of obtaining Satisfaction by amicable Means. This was the Intention, this was the Advice of Parliament ; and according to this Advice his Majesty apply'd to the Court of *Spain*, to see what could be done by way of Negotiation. At the same time he made so far Use of the Powers granted him by Parliament,

patient, as to fit out several Squadrons, and send them to *Spain*, that we were ready to revenge, in case they should refuse, or unreasonably delay giving us Satisfaction; but it would have been contrary to the Advice of Parliament, to have sent any of those Fleets out, with Instructions to begin Hostilities. Such Instructions might have been easily and speedily sent, as soon as his Majesty had found that nothing else would prevail; but to have given them such Instructions, before he had made the least Application for procuring Justice and Satisfaction in a peaceable Way, would have been directly contrary to what was recommended to him by both Houses, last Session of Parliament.

Ann. 12 Geo. II.
1738-9.

The Fleet that was sent to the *Mediterranean*, my Lords, was properly and sufficiently provided for answering all the Ends that were intended by it, even though a War had broke out between the two Nations; for, even in that Case, it would have been ridiculous in us to have expended our Strength, and put our selves to a great Charge, in attacking any of the *Spanish* Dominions in *Europe*, where we could do them but little Prejudice, and could reap no great Advantage to our selves. That Fleet, therefore, could only be designed for protecting our own Possessions and Trade in that Part of the World, for intercepting any *Spanish* Ships that should happen to escape our Fleet in the *West-Indies*, and for preventing any Supplies being sent from *Old Spain* to any of their Colonies, or Plantations in *America*; and for answering all these Purposes, the Fleet that was sent to the Coasts of *Spain*, was sufficiently provided with every thing that was necessary.

The *West Indies*, my Lords, is the Part of the World, where, in case of a War, we could do the most Harm to *Spain*, and the most Good to our selves; and there, if we can but prevent any Supplies being sent from *Old Spain*, we shall stand in need of no Land-Forces being sent from hence. Our own Colonies, upon the Continent and in the Islands of *America*, would soon furnish us with Land Forces sufficient for attacking *Spain* by Land in that Quarter, if we send a Squadron of Men of War sufficient to protect them at Sea. But suppose it should be necessary for us to send Land Forces from hence; it would not be proper, because of the Climate, to send them thither, till we were just ready to enter upon Action, which could not be our Case the Beginning of last Summer; because his Majesty was to try what could be done by peaceable Means, before commencing Hostilities, either in the *West-Indies* or in *Europe*. For this reason, it was necessary to send a Squadron to the *West-Indies*

Ann. 14 Geo. II.
1738-9.

Indies for protecting our Trade in the mean time; and in order to take Land Forces on Board, as soon as any could be raised in our Colonies, in case a War had become necessary; but it would have been contrary to the Plan that was prescribed by Parliament, to have immediately begun Hostilities; and therefore it was wrong to seize the *Spanish* Register-Ship, which the noble Lord was pleased to mention, and it was right in our Commodore to order her being restored.

My Lords, as the Court of *Spain* could not be ignorant of the Advice that was given to his Majesty by his Parliament last Session, and as his Majesty, to our Happiness and his own Honour, has always made the Advice of his Parliament the Rule of his Actions, they could not but suppose, that the Squadrons we sent out were instructed not to begin Hostilities, till farther Orders; but such Orders, they knew, might soon be sent; such Orders, they knew, would be sent immediately, upon their refusing to give Ear to a friendly Accommodation of those Disputes that subsisted between the two Nations. This they were sensible of, and therefore, they not only appeared willing to do us Justice, but have granted all that we could expect by a successful War; for even, in case of a successful War, we must at last have agreed to Preliminaries, before Peace could be restored, and by those Preliminaries we could expect no more than a full Satisfaction for our Losses, and an Agreement to have all other Disputes adjusted by a definitive Treaty.

But, my Lords, before I enter into the Consideration of what we have got by Peace, I must examine a little into what we could expect, or might have lost, by War; for though I have as great a Confidence in the Strength and Courage of my Country, as any Man ought to have, yet I am not so sanguine, as to think, that we have Victory chained to our Chariot-Wheel, or that we must be successful in every War we engage in; and therefore in all Questions relating to War or Peace, I think we ought to consider what we may lose, as well as what we may get, by a War. By a War with *Spain*, my Lords, we could not expect to make much by Privateering, or by taking and making Prize of their Ships at Sea. In case of a War with this Nation, they would send no Ships to Sea, but small, light Frigates, by way of Privateers, for intercepting such of our Merchant-ships as they found without, or straggling too far from a Convoy; and though by taking such, we might prevent a Loss and Interruption in Trade, yet we could not expect to reap any great Benefit. Some People may, perhaps, imagine, that great Advantages might be made by our intercepting their Plate Fleets, or the Ships that are employed in their Trade
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with their Settlements in *America*, because none but *Spanish* Ann. 12 Geo. II. 1738:9. Ships can be employed in that Trade ; but even this would be precarious, and might, in several Shapes, be entirely prevented; for if they should open that Trade to the *French* and *Dutch*, it is what those two Nations would be glad to accept of : and we could not pretend to make Prize of a *French* or *Dutch* Ship, on Account of her being bound to or from the *Spanish* Settlements in *America*, no more than we could make Prize of her on Account of her being bound to or from any Port in *Spain* : We could not so much as pretend to seize any Treasure or Goods (except contraband) she had on Board, unless we could prove, that those Goods, or that Treasure, actually belonged to the King or Subjects of *Spain*, which it would be impossible to do. By this Method, the *Spaniards* might render it impossible for us to seize any of their Treasure or Effects, in its Passage between *New* and *Old Spain* ; and even without opening a Trade to their Settlements, they might almost as effectually do the same, by means of the *Dutch* Island of *Curaçso*, and the *French* Settlements in *Hispaniola*, or the Island of *Martinique* ; for these Places lie so near the *Spanish* Settlements in *America*, that it would be easy for the *Spaniards* to carry their Treasure and Effects, in their own Ships, to one or other of these Places, and to take from thence what Goods or Merchandize they had occasion for, without running any great Risk of being intercepted by our Men of War, or Privateers ; and from these Places the *Spanish* Treasure and Effects might be safely brought to *Spain* in *French* or *Dutch* Bottoms, and in the Name of *French* or *Dutch* Merchants.

Thus it appears, my Lords, that in case of a War with *Spain*, we could not expect any great Advantage by Privateering, or by any Prizes we could take at Sea ; and at Land we could make no Conquests. No Man will pretend that, if it were in our Power, it would be our Interest to conquer any of the *Spanish* Dominions in *Europe* ; at least, I am sure, it would not be our Interest to keep them, nor would it be our Interest to give them to any other Power in *Europe*. And as to their Dominions in *America*, or the *West-Indies*, we have expressly promised, by the Treaty of *Utrecht*, that they shall be preserved whole and entire to the present King of *Spain*, and his Successors ; so that by endeavouring to conquer any of them, we should not only commit a Breach of that Treaty, but likewise we should probably raise up a Confederacy in *Europe* against us ; for none of the Powers of *Europe* would chuse to see us Masters of the Whole, or any Part of the *Spanish West-Indies*.

Ann. 12 Geo. II.

1728-9.

‘ Therefore, my Lords, the only Method by which we could propose to get any Advantage, by a War with *Spain*, would be by making Inroads upon, and plundering their Settlements in *America*; and this we should find much more difficult, than it was formerly. Their Sea-ports, and inland Towns in that Part of the World, are now better fortified, and better provided with every thing necessary for making a stout Defence, than ever they were heretofore; and yet, during the last War, I believe it cannot be said, that the Nation got much by any Inroads that were made upon them. The truth is, we never attempted to make any considerable Inroads, or any Conquests, in that Part of the World, because of the Difficulty and Expence of transporting a Land-Army thither; and because we knew the Climate to be very unwholesome for any Land-Army we could send thither.

‘ Having thus shewn, my Lords, that we cannot expect any great Advantage from a War with *Spain*, let us next consider the Dangers we would be exposed to. I shall be far from saying, upon this Occasion, or upon any Occasion, that we must not vindicate our Rights, or our Honour, against *France* or *Spain*, for fear of their joining together against us; but this I may venture to say, that when there is a Probability of their joining together against us, at a Time when the Affairs of *Europe* are in such a Situation, that we can form no Confederacy against them, at a Time when, if we engage in War, we must stand single and alone against these two powerful Nations; I say, my Lords, at such a Time it would be prudent in us to suspend our Vengeance, if possible, till a more proper Opportunity should offer; and this, I am afraid, is our Case at present. If *France* should join with *Spain* against us, we would be exposed to many Dangers, and it would be difficult to guard against them all. We are, it is true, at present, superior to both at Sea; but as *France* has great Numbers of Seamen, they would soon get Ships of War, if they were to be at no Expence in defending themselves at Land; so that they might soon rig out a powerful Squadron. On the other hand, as we are liable to be attack’d in several Parts of the World, we must divide our Naval Force: We must send Squadrons to different Points of the Compass, and every one of these Squadrons must be superior to any that *France* and *Spain* can jointly fit out against us. As we have the Misfortune to have a Party amongst ourselves disaffected to our present Establishment, a Party much more considerable than some People seem willing to believe, we must keep a very powerful Squadron at home, for preventing its being in the power of our Enemies to invade us. As we have a great Trade and valuable Possessions in
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the *Mediterranean*, we must keep a powerful Squadron in that Sea, for protecting our Trade and our Possessions in that Part of the World. And as our Plantations, especially our Sugar Islands, are of great Consequence to our Trade, and lie much exposed to be invaded, and perhaps destroyed, we must keep a powerful Squadron in the *American* for their Protection. To which I must add, that, considering the Alliance lately formed between *France* and *Sweden*, we might, perhaps, find ourselves under a Necessity of sending a powerful Squadron into the *Baltick*, for the Defence of our Allies, or for preventing an Invasion from that Quarter. And, notwithstanding the great Opinion we justly have of our Naval Force, and of the Bravery of our Seamen, I hope, I shall be excused, if I even express some Diffidence of our being able to send a Squadron to each of these Places, sufficient for encountering the united Force of *France* and *Spain*, perhaps the united Force of *France*, *Spain*, and *Sweden*.

But suppose, my Lords, that *France* should remain quiet, and no Way interfere openly in the War between *Spain* and us: Suppose, no Power in *Europe* should assist *Spain* in the War against us, yet we could not immediately reduce *Spain* to a Necessity of complying with our just Demands. The War between us might last for several Years; and while it lasted, the *French* would have a great Advantage over us in every Branch of Trade we are, or can be, concerned in. Though the *Spaniards* have not many Seamen of their own, yet in case of a War with this Nation, they would be in no want of Seamen for fitting out a great Number of Privateers against us: *French*, *Dutch*, and perhaps some of our own Seamen, would engage in their Service for that Purpose: so that the *Mediterranean*, the *American*, the *British*, and in short, all the Seas where we have any Trade, would be full of Privateers under *Spanish* Colours. This would raise the Price of Insurance upon *British* Ships higher than upon the Ships of any other Nation in *Europe*; and our Merchant-ships would be often put to a great Expence and Delay, by being obliged to wait for a Convoy; which would considerably enhance the Charge upon all Manufactures, or Merchandize, sent by our own Shipping to Foreign Markets. Let us consider, my Lords, that the *French* already under-sell us in most of the Manufactures we deal in, and that the Freight of *Hamburg*-Ships, and some others, is now cheaper than that of *British*: If we consider this, we shall easily see the Consequence, if we should add a new Charge to the Price of our Manufactures at Foreign Markets, and make it more unsafe, or more expensive, to

Ann. 12 Geo. II.
1738-9.

employ *British* Ships, than those of any other Nation, by engaging in War, when all the other Trading Nations of *Europe* are at Peace: We should export no Manufactures, no Merchandize, at least we should export none in our own Shipping: And what would then become of our Trade and Navigation?

This, my Lords, would be the Consequence of a long War between the two Nations, with respect to ourselves; and with respect to *Spain*, it would probably be entirely ruined. We might, perhaps, at last, force them to do us all the justice in their Power; but they would be so exhausted, with the Losses and Expences of the War, that it would not be in their Power to make any Satisfaction for the Damage they have already done us, or might do, during the War, and much less for the Expences we have been, or might be put to. Now my Lords, though we have, at present, good reason to be offended with *Spain*, though we have good reason to insist upon Satisfaction and Security, yet it is not our Interest to weaken the Power of that Nation; we ought rather to support it, as a Balance against the Power of *France*; for tho' the Court of *Spain* may, perhaps, be at present too much swayed by *French* Councils, it will not always, it cannot long be so. The Interests of *France* and *Spain* are as incompatible, as the Interests of *France* and this Kingdom; and therefore, as soon as the Court of *Spain* begins to be swayed by true *Spanish* Councils, which some Accidents may soon bring about, we may reasonably expect to have that Nation for one of our best and firmest Allies; and whenever that happens, they will gladly give us all the Satisfaction and Security we can desire, in order to gain our Friendship, and to restore a mutual Confidence between the two Nations.

Both the Circumstances of *Europe*, and the Circumstances of *Spain*, are now, my Lords, very different from what they were in the Reign of Queen *Elizabeth*, or in the Time of *Oliver Cromwell*. In Queen *Elizabeth's* Reign, *Spain* was the only formidable Power in *Europe*; and we had as much reason, as any other of her Neighbours, to endeavour to reduce her Power. For this Purpose, Queen *Elizabeth* took the wisest Course that could be taken, by encouraging and supporting the Civil War in the *Netherlands*, by which Means, she at last enabled the *seven United Provinces* to throw off the Yoke of *Spain*; and the whole Power of *Spain* being applied towards supporting their Dominion over the *Netherlands*, they could neither spare Money for fortifying their Settlements in *America*, nor could they send any regular Troops thither for defending them; so that

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even our private Adventurers had great Success, and often got rich Booties by Privateering, and by Incursions upon those Settlements ; for, as there was no good Correspondence between *France* and *Spain*, and an open War between *Spain* and *Holland*, the *Spaniards* could not make use either of *Dutch* or *French* Vessels for carrying on their Trade with their Settlements in *America* ; and beside, as the *French* were then involved in Civil Wars, they durst not venture to disoblige *England* ; by assisting *Spain*, either openly, or by underhand Dealings.

Ann. 12 Geo. II.
1738-9.

‘ In *Oliver Cromwell’s* Time, my Lords, we know that the *Spaniards* were engaged in a heavy War with *France*, which rendered them unable to provide for the Security of their Trade and Possessions in *America* ; and though, by our taking part with *France* in that War, we got the Island of *Jamaica*, which was a valuable Acquisition, yet I must think, it would have been lucky for this Nation, if *Oliver* had joined with *Spain* against *France*, instead of joining with *France* against *Spain* ; for it was his fatal Union with *France*, that laid the Foundation of the excessive Power of that Kingdom, which has since cost this Nation so much Blood, and so many Millions. And now, my Lords, with regard to both these Wars, I must observe, that notwithstanding our great Successes against *Spain* in *Queen Elizabeth’s* Reign, notwithstanding our great Successes against *Spain* in *Oliver’s* Time, yet that Nation was not easily or soon induced to comply with such Terms as we thought reasonable ; for both *Queen Elizabeth* and *Oliver Cromwell* left the War to be put an end to by their Successors.

‘ Considering, therefore, my Lords, the little Advantage we can reap, and the great Dangers we may be exposed to, by a War with *Spain*, I must think it would be not only unchristian, but impolitic in us to do them any real Injuries, or to insist upon unreasonable Terms for accommodating those Differences, that must unavoidably, sometimes, arise between the two Nations. I shall not say, that either the Precepts of Christianity, or the Maxims of sound Politics, oblige us to heap Coals of Fire upon their Heads, by returning Good for Evil ; but this I will say, that we ought at all Times, and especially the present, to be more ready to forgive *Spain* than any other Nation in *Europe* ; and consequently, we ought to insist less upon the Point of Honour, and accept of a less ample Satisfaction, with regard to any Injuries that may be done us by the *Spaniards*, than with regard to the Injuries we may receive from any other Nation in the World. Even in private Life, a Man would sooner and more easily pardon an Injury done him by a Relation, or old Friend,

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Ann. 12 Geo. II. 1738-9. { than an Injury done him by an utter Stranger, or by one with whom he never had, nor ever expected to have, any cordial Friendship.

‘ This, my Lords, leads me, of course, to consider what we have got by the Convention now under our Consideration ; and here, my Lords, I must say, I am surprized to hear it affirmed, that we have got no more by this Convention, than what the King of *Spain* had before allowed to be due. To support this Assertion, we have been told, that the *Spaniards* had not one Shilling to demand of us ; and that the 95,000 *l* was not to be paid by them, unless our *South-Sea* Company first paid them, or made them a Present, as it was called, of 68,000 *l*. but both these Facts must appear to have been very much misrepresented. The *Spaniards* certainly made a very great Demand upon us : A Demand that far exceeded 60,000 *l*. They demanded full Reparation for all the Damage we did them in the Year 1718, which, according to their Way of Reckoning, would have amounted to more than ten times 60,000 *l*. for they said, that though his Catholic Majesty had agreed, by the Treaty in 1721, to accept of Restitution of the Ships we had actually taken from him, yet he had not by that, or any other Treaty, given up his Claim for the other Damages we had done him ; and that, if he had, he was not obliged to stand to it, because we had not complied with the Restitution stipulated by that Treaty. Whether this Demand was just or not, is what I shall not take upon me to determine ; but it was certainly made, and strongly insisted on by *Spain* ; and if we got them to agree to reduce it to 60,000 *l*. I must think it was prudent in us to allow them, by way of a friendly Accommodation, to deduct that Sum out of what was due to our Merchants, on Account of the Depredations committed by their Subjects on the *American* Seas. ‘Tis true, we do not receive this Sum in Ready Money, but, I think, it is more beneficial to us than if we did ; because, by allowing it to be deducted, we get free of a Demand which amounted to a great deal more, and which would have been a perpetual Bone of Contention between us and a People with whom we ought, if possible, to cultivate a good Correspondence.

‘ Now, my Lords, with regard to the 68,000 *l*. claimed by *Spain* from our *South-Sea* Company, I cannot comprehend how any one can imagine, that the Court of *Spain* is resolved not to pay the 95,000 *l*. stipulated by this Convention, unless this 68,000 *l*. be first paid to them by our Company. I am sure there is no such Condition in the Convention. Our *South-Sea* Company have nothing to do with the Convention ;

tion; all Accounts and Differences between them and the Crown of *Spain* being expressly excepted, in that very Article by which the 95,000 *l.* is stipulated, and the Company not so much as once mentioned in any other Part of the Treaty. Even his Catholic Majesty's Declaration, or Protestation, does not subject the Payment of the 95,000 *l.* to any such Condition; for all that was meant by that Protestation was, to preserve to his Catholic Majesty his Right to suspend the *Affiento* Contract, in case the Company should fail in performing their Part of that Contract; which Right was established in his Catholic Majesty, and his Successors, not only by the very Nature of the Contract itself, but by the express Words of the Conclusion or Ratification of that Contract; his Catholic Majesty's Words being, 'And I promise and assure, upon my Faith and Royal Word, that, *provided the Company of England perform this Contract on their Part, so far as concerns them, and as they are obliged, I will perform it on my Part.*'

Ann. 12 Geo. II.

1738-9.

'Thus it appears, my Lords, that the Payment of the 95,000 *l.* is not by this Convention, nor even by the King of *Spain*'s Protestation, to be delayed, much less denied, on Account of our *South-Sea* Company's not paying the 68,000 *l.* claimed from them by *Spain*. Therefore it is not our Business, upon the present Occasion, to enquire whether that Claim be just or no. The Company may have greater Claims upon the Crown of *Spain*, and yet *Spain* may think themselves justified in not admitting of Compensation; for as the Claim the Company has upon the Crown of *Spain*, proceeds from the Seizure of their Effects in the Years 1718 and 1727, which have not yet, according to Treaties, been fully restored; and as the Court of *Spain*'s Claim upon the Company proceeds entirely from the *Affiento*-Trade, there may, from the very Nature of Compensation, be some Reason not to admit of it in this Case; because the King of *Spain* may alledge, that by restoring the very Effects that were seized, he may still free himself from the Payment of any Money, or he may say, that what is due by him on that Account, is not yet fully settled and ascertained; and that therefore he cannot allow it in Compensation of a Nett Sum, which, he says, the Company has confessed to be due to him. My Lords, I do not say, that any of these Arguments are just, I only mention them to shew, that none of our Disputes with *Spain* are so clear, or so easily adjusted, as some have been pleased to represent.

'I hope it will now appear to your Lordships, that we are, by this Convention, to receive the full Sum of 95,000 *l.* from *Spain*, and that to this Sum we ought to add the

Ann. 12 Geo. II.
1738-9.

60,000*l.* we have allowed, for which *Spain* has given up a Demand she had upon us of a much larger Extent; therefore we must allow, that the Reparation granted us by this Convention for our Losses before Dec. 10, 1737, amounts to the full Sum of 155,000*l.* which is more than 15*s.* in the Pound of what we really lost; and before I heard of this Treaty, I should have thought him a very unreasonable Merchant, and a very bad Countryman, that had told me, he would not willingly accept of 15*s.* in the Pound in full of what he had lost, rather than see his Country involved in a War against *Spain*, and at such a Juncture. I say, my Lords, that 155,000*l.* the Sum we are to receive by way of Reparation, amounts to more than 15*s.* in the Pound upon our real Loss; because our own Commissaries did not value it at more than 200,000*l.* and I have heard no good Reason given, why we should discredit their Report, nor do I believe, from the Character I have heard of the Gentlemen, that they would have received, much less obeyed, any Instructions, by which they were enjoined not to admit of those Demands, which appeared to them to be reasonable and just: The *Spaniards*, we know, make heavy Complaints against them, for having admitted of the most extravagant Claims, and for refusing no Claim that was laid before them; so that, like good Arbitrators, they are blamed by both Sides, which is seldom a Sign of Injustice. As for the five Ships mentioned in the 4th Article of this Convention, they were included in the 200,000*l.* at which our Losses were valued by our Commissaries; and therefore, if any Part of any of them has been restored, the Value ought in Justice to be deducted out of the 95,000*l.* to be paid to us, by *Spain*, for our Losses in general.

We are so far, my Lords, from having obtained no Reparation, that, I think, I may now venture to say, we have obtained, by this Convention, a more ample Reparation than was ever obtained by this Nation in any former preliminary Treaty. Even in *Oliver Cromwell's* Time, by the Treaty of Peace, after the War we then had with the *Dutch*, he accepted, by way of Preliminary, of an immediate Payment of 10,000*l.* in Part of Satisfaction for a great number of *British* Ships that had been seized and detained in the Dominions of the King of *Denmark*. This, my Lords, was all he insisted on by the Treaty, though it was not near equal to the Loss we had sustained, the rest being referred to be settled by Commissaries respectively appointed by the two Republics; and yet it must be allowed, that no Man ever insisted more strenuously upon the Rights and Privileges of his Country, and that he had the good Fortune to live at a

Time,

Time, when none of our Neighbours were in any tolerable Condition to engage in War, or to form a Confederacy against us. Ann. 12 Geo. II.
1738-9.

‘ Having now shewn, my Lords, that we have got, by this Convention, as ample a Satisfaction for past Losses as any reasonable Man could expect, I shall beg Leave to consider, as briefly as I can, what is stipulated, with regard to our future Security ; and upon this Head I shall first observe, that from the Nature of the Dispute between *Spain* and us, we could not expect that it was possible to provide, properly or fully, for our future Security by preliminary Articles. The *Spaniards* do not pretend to deny our Right to a free Navigation upon the open Seas of *America* ; but the Dispute between us is, what shall be reckoned the open Seas of *America*. They say, that their Coasts cannot be called open Sea ; and that therefore, if any one of our Ships come upon their Coasts without Necessity, they have a Right to search her, in order to see whether she has been concerned in any illicit Trade with their Settlements : They say farther, that their Coasts in *America*, as well as their Coasts in *Europe*, are within their own Dominions ; that they have a Power to make what Regulations they please within their own Dominions ; and that, therefore, they have a Power to regulate what shall be deemed Testimonies of a Ship’s having been concerned in an illicit Trade, if such Ship be found upon their Coast. Now, my Lords, that every Nation has a sort of a Right to, and a Dominion over, what may properly be called their own Coasts, is what, I believe, no Man that undertands any Thing of the Law of Nations will deny ; but the Question is, how far out at Sea these Coasts shall extend ; and as this is a Question that has not yet been determined by any Treaty between *Spain* and us, it must be very particularly enquired into, before any Settlement can be made by a new Treaty. There may be Reasons for confining the Coast within much narrower Bounds in some Seas than in others. In those Seas, where the common Course of Navigation lies very near the Shoar, the Coast of the neighbouring Country must be very much confined ; and in those Seas, where the common Course of Navigation never approaches near the Shoar, the neighbouring Country, or State, may be allowed to extend their Coasts to a greater distance at Sea.

‘ These Considerations, my Lords, shew how difficult it will be to regulate what the *Spaniards* may be allowed to call their Coasts in the *American* Seas, what may be called a Necessity for a Ship’s approaching their Coasts, and what may be called proper Testimonies, or Proofs of a Ship’s having been concerned in an illicit Trade ; and no Man who

Ann. 12 Geo. II.
1738-9.

considered these Difficulties could expect, that they could be removed in a short Time, or by a preliminary Treaty. The Negotiators on both Sides will certainly be obliged to send to the *West-Indies*, in order to have proper Information from those, who are perfectly acquainted with the Navigation in those Seas; and both may, perhaps, be obliged to send a second Time, in order to have those Difficulties answered, or removed, that may be started upon the first Conferences. It is not our Right to a free Navigation in the open Seas of *America*: It is not our Right to carry in our Ships what Goods we please from one Part of his Majesty's Dominions to the other: It is the Right the *Spaniards* have to take Methods, and to prescribe Rules, within their own Dominions, that is to say, upon their own Coasts, for preventing an illicit Trade with their Settlements in *America*, that is to be regulated by the Plenipotentiaries respectively named by this Convention; and in this, our Plenipotentiaries, if they were inclined, can do us no Injury; because the Regulations they agree to can be of no force, till they are ratified by his Majesty.

Whatever some Lords may think of the Distinction between a Right and the Enjoyment of that Right, however incomprehensible they may think it, I must look on it as a just and a proper Distinction; for a Man may have a Right to an Estate, and yet his Enjoyment of that Right may be regulated, or even restrained, by some Right or Privileges granted to another. We have a Right to a free Navigation in the Seas of *America*; but we have, by the Treaty in 1670, granted the *Spaniards* an exclusive Right to the Trade with their own Settlements in that Part of the World; and therefore we have, according to an established Maxim in Law, granted them every Thing that is necessary for the Enjoyment of that exclusive Right. For this purpose they say, that they must search such Foreign Ships as approach their Coasts without any Necessity, and must make them liable to Confiscation, if any Thing should be found on Board, that is the proper Produce of their Settlements; because, without this, it would be impossible for them to exclude Foreigners from carrying on a Trade with their Settlements; and if this Privilege should be allowed them, as a Consequence of the exclusive Right we have agreed to by the Treaty in 1670, it would be a sort of Restraint upon our Enjoyment of the Right we have to a free Navigation in the Seas of *America*. I am far from granting, my Lords, that there is any Foundation for this Pretence. I do not think, that such a Privilege is absolutely necessary for enabling them to enjoy their exclusive Right; but if it were, they would have some Reason for insisting upon it; and whether it be so

or not, is a Question that could not be enquired into in a short Time, and consequently, could not be determined by a preliminary Article.

Ann. 12 Geo. II,
1738-9.

These are the Disputes, my Lords, upon which our future Security depends; and as these Disputes are of such a Nature that they could not be settled in a short Time, therefore we could not expect, that our future Security could be provided for any other way than it is by this preliminary Convention; nor could we in this Case stipulate any Suspension: We could not stipulate, that they should suspend searching our Ships upon the high Seas; because it is what they never pretended to: Such a Stipulation would really have been a sort of Acknowledgment, that our Right to a free Navigation on the open Seas of *America* was a disputable Point; and if we had desired them to suspend taking those Measures, which they think absolutely necessary for preventing an illicit Trade, they would have look'd on it as the Demand of a Privilege to carry on such a Trade, till the definitive Treaty should be concluded, which is a Demand we could not expect they would grant. Besides, we had no occasion to demand any Suspension in this Case; because, during the eight Months in which this Affair is to be finally determined, we shall have a Squadron in the *West-Indies*, that will be sufficient to protect our Trade, against any Injustice that can be committed by their *Guarda Costas*.

As for the Article that relates to settling Limits between *Florida* and *Carolina*, I am surprized, my Lords, to hear it found fault with. We have got more by that Article, than we could ever before get by any Treaty between us and *Spain*; for by that Article, we have got them to acknowledge by Name, our Right to *Carolina*; and though we now give the Name of *Georgia* to the Southern Parts of *Carolina*, yet as *Georgia* was formerly a Part of that Country to which, in general, we gave the Name of *Carolina*, I think this Article implies an Acknowledgment of our Right to *Georgia*, and shews that the *Spaniards* do not dispute with us our Rights to that Province, but only the Limits between what we now call *Georgia*, and what they and we call *Florida*. They may perhaps pretend, that we have extended our Settlements in *Georgia* too much towards the Southward, and, by that Means, have encroached upon their Territories in *Florida*; but from this Article it cannot so much as be presumed, that they intend to dispute our having a Right to any Part of *Georgia*; and if they should, our Plenipotentiaries may refuse to treat with them upon such Terms; for by this Article they are laid under no Obligation to do so. Here, indeed, the very Nature of the Dispute made a Suspension necessary; but I must observe,

Ann. 12 Geo. II.
1738-9.

that this Suspension is mutual ; for the *Spaniards* are obliged to suspend increasing their Fortifications, or taking any new Posts in *Florida*, as much as we are in *Carolina* ; and as Limits between Frontier Provinces are generally referred to be settled by Commissaries, after a definitive Treaty is concluded, I am sure no Fault can be found with referring the Limits between these two Provinces to be settled by Plenipotentiaries, named and appointed by a Preliminary.

‘ I have now shewn, I hope, my Lords, that by this Convention we have got all we could reasonably expect by a Preliminary ; from whence it must be presumed, I think, that we are in a fair Way of getting all we can reasonably demand, by the solemn Treaty that is to be concluded in pursuance of this Preliminary, within the space of eight Months, which is the shortest Time that could be given for settling those Disputes, which still subsist between us and *Spain*. Therefore, if the Affairs of *Europe* were in as favourable a Situation as we could wish, if our own Circumstances were as happy as we could desire, it would have been imprudent in us to have begun Hostilities, when we have found the Court of *Spain* so well inclined to give us all reasonable Satisfaction : His Majesty would have acted contrary to the Advice given him last Session by his Parliament, if he had refused to accept of such a preliminary Convention. By commencing Hostilities we might, perhaps, have added to our Glory, and might have given more Satisfaction to those who delight in Strife and Contention, as well as to Men of desperate Fortunes, who want to fish in troubled Waters ; but these Sorts of Men are such as no wise Government will endeavour to satisfy ; and every one knows, that the Happiness of a Country is distinct from, and often inconsistent with its Glory. The late King of *Sweden*, by seeking his own Glory in War, raised it to a very high Pitch ; but he ruined, he dispeopled his Country ; and if we follow the Example of Cardinal *Fleuri* (for I think I may name him) which the noble Lord that spoke last has been pleased to recommend to us, we shall never go to War without an absolute Necessity ; for he has procured more Happiness for his Country, and acquired more Glory to himself, than the late *French* Monarch did by all his Wars, and by all the Tapestry or Historical Looms he set to work, assisted by an infinite Number of Poems, Panegyrics, and Pieces of Painting, which he procured at a vast public Expence, for celebrating the heroic Actions he performed by his Generals and his Armies ; for whatever Share he might claim in the Glory, I think he took care never to have any Share in the Danger.

‘ I say, my Lords, if the Affairs of *Europe*, as well as our domestic Affairs, had been in the best Situation, it would have

have been imprudent in us to have engaged in War, especially against *Spain*, when we found ourselves in so fair a Way of obtaining all we could desire by peaceable Means ; but, as neither our own Affairs, nor the Affairs of *Europe*, can be said to be at present in a very favourable Situation, it was certainly our Business to avoid engaging in War, at this Juncture, if possible. What this Situation may be owing to, I shall not take upon me to determine ; but, with Respect to our domestic affairs, I am sure, the Situation they are in is not owing to any late Mismanagement here at home. The Debts and the Taxes we are at present loaded with, are known to be the unhappy Relics of the last heavy War we were engaged in against *France* and *Spain*. We have never since engaged in any War, we have been put to no Expence, but what has been authorized or approved by Parliament, as being absolutely necessary for the current Service ; therefore if we have paid off but a small Part of the Debt we incurred during that War, it can proceed from no Mismanagement, but from a tender Regard to the People, which prevented our loading them with more Taxes than were absolutely necessary, for paying the Interest growing due to the Creditors of the Public, and for defraying that Expence which the Parliament, from Year to Year, thought necessary for the Public Service.

‘ And with regard to the present Situation of Affairs in *Europe*, it may, for what I know, my Lords, be owing to the Ambition of one Court, and the Pride and Obstinacy of another ; but, I am sure, it can be no way justly imputed to the bad Conduct of any of those who are now, or have lately been, employed in the Administration of our public Affairs. Our Ministers are neither the Masters nor the Directors of the Councils of foreign Princes or States ; and therefore, cannot be justly made to account for their Actions or Behaviour. They may be made to account for their own ; but, with regard even to their own Behaviour, we ought not to judge of their Measures by the Event, we ought to consider them in the Light they appeared in when taken : It is easy to find Fault with past Measures, when cross Accidents happen that could not be then foreseen, or when Time clears up Facts that could not be then discovered ; but, whatever our late Measures may have been with regard to foreign Affairs, those who advised them have had the good Fortune to have every Step of their Conduct approved of by Parliament. Even the late Treaty of *Hanover*, which some People now pretend to find Fault with, was approved by Parliament ; and I still think it deserved the Approbation it met with ; for, by the Treaty between the Emperor and *Spain*

Ann. 12 Geo. II.

1738-9.

Ann. 12 Geo. II, our Troops would be embarked on board our Fleet, and sent where they might be of some Service to their Country. I little thought that this Session of Parliament would have opened with a sort of Treaty or Convention, that gives us neither War nor Peace, nor any thing, in my Opinion, but Shame and Confusion.

1738-9.

‘ Indeed, when I heard our Squadrons were sailed, and found by the Complaints of my Neighbours, that our Troops remained, I cannot say quiet, in their Quarters, I began to suspect some new *Carthagena* Expedition. I began to fear that our sham War would end in a sham Peace; and now I find my Fears were not without Foundation. But, my Lords, if we had obtained as honourable a Treaty as ever was concluded by this or any Nation, I would, nevertheless, have ventured to have said, that the Expence we put ourselves to, the Squadrons we fitted out, had no Share in obtaining it; for surely those Fleets, those warlike Preparations, that can do no considerable Harm to an Enemy in case of a War, can have no Influence in obtaining a Peace. Our Squadron sent to the *Mediterranean* was, it seems, designed to be a harmless Squadron; and that which was sent to the *West-Indies*, ’tis allowed, must have been so, till they got some Land-Forces on board, for which no Preparations were made, either at Home, or in our Plantations. But we are told, that Land-Forces might soon have been raised in our Plantations, which is a Fact I very much doubt of: We have, as yet, but few spare Hands in any of our Plantations, and to have taken Men from that valuable Labour, in which our Planters and their Servants are always employed, would have been a great Loss to our Trade. It would have been much better to have sent eight or ten thousand of the idle Fellows we have at Home, to some of our most healthful Plantations, in order to have been there ready at a Call; for the Difference of the Climate is so far from being an Argument against, that it is a strong Argument for sending them thither some Months before we have Use for them, that they may have Time to be seasoned to the Climate, and to recover from the Fatigues of a long Voyage, before they are sent upon any Expedition against an Enemy.

‘ This, my Lords, would have had a greater Influence upon the Court of *Spain*, than all the Men of War we fitted out; for I must think it was a very extraordinary sort of Management, to fit out above a hundred Sail of Men of War, against a Nation that cannot send thirty capital Ships to Sea. Therefore, if the Court of *Spain* was to be frightened or threatened into Terms, we ought to have sent out Regiments of Foot, instead of most of the Men of War that
were

were fitted out ; and if that Court was not to be threatned; there was no Occasion for putting ourselves to any Expence, till a War was actually resolved on. As they have but few Ships at Sea, and those they have, hard to be met with in such a wide Ocean as that between *Spain* and *America*, our Squadrons, without a Land-Force along with them, can do them little or no Prejudice ; and suppose we could have raised a sufficient Land-Force in our Plantations, it will, I hope, be allowed, that, after we had sent Orders for raising that Land-Force, we might have fitted out a Squadron here at Home, and sent it thither, Time enough for taking those Land-Forces on board, before they could have been ready to embark. Therefore we had as little Occasion for putting ourselves to the Expence of Naval Preparations, as we had for putting ourselves to the Expence of raising Land-Forces, till we had got a final Answer from *Spain* ; and without threatening to invade some of their Territories, in *Europe* or *America*, with a Land-Army, our numerous Squadrons could now as little persuade them to agree to our Terms, as *Hofier's* Squadron could formerly persuade them to deliver the Effects of their Galleons into his Hands.

Ann. 12 Geo. II.
1738-9.

I am convinc'd, my Lords, that the Squadrons we sent out last Summer, like some others we have upon former Occasions fitted out, gave all *Europe* an Occasion of Mirth, instead of giving the *Spaniards* an Occasion of Fear. The Court of *Spain* must mistake our Power, or despise our Management, otherwise they would not have dared to have offered such a preliminary Treaty, as we have stoop'd to accept of. Preliminaries are sometimes agreed on by Nations engaged in War, before they can conclude a solemn and definitive Treaty of Peace ; but by such Preliminaries the most material Points are always settled, and some Pledges are generally given for Performance of Articles. By these Preliminaries no one material Point is settled ; the only one that is settled is, that relating to the Damages we have sustained, and that is settled by our agreeing to give a general Release, without receiving one Shilling Consideration. Can this be called a Treaty ? To me it seems as if our Minister had presented M. de la *Quadra* with a *Carte Blanche*, a Sheet of clean Paper, and desired he would write what he pleased, because it was necessary for us to have a Treaty of some kind or other.

My Lords, I shall grant that, before we resolve on a War, we ought to consider what we may lose, as well as what we may get ; but, I hope, 'twill be allowed, that before we conclude a Peace, or any Treaty for preventing a War, we ought to consider the Dangers we may be exposed to by submitting to an infamous Peace, as well as the Dan-

Ann. 12 Geo. II.
1738-9.

gers we may be exposed to by engaging in a just and honourable War. It seems now to become a fashionable Doctrine amongst us, that a Trading Nation ought to be cautious of engaging in a War. My Lords, it is directly the contrary: No Nation ought to go to War without Provocation; but of all Nations in the World, a Nation engaged in Foreign Trade ought to be the most jealous of its Honour and Privileges, and therefore the most cautious of submitting to any thing that may look like an infamous Peace. The Nature of its Trade obliges many of its People to travel, and some of them to live in Foreign Countries: They must there meet with Justice and Respect, otherwise they neither will travel nor live, nor can they carry on any Trade. But can they expect to meet with Justice, or even with common Civility, if the Nation to which they belong be generally despised and contemned, which it must be, if it submits to an infamous Peace? This will be our Case, if we should be so fond of Peace as to avoid going to War, when we have a just Occasion. If we do not vindicate our Honour, and assert the Rights and Privileges of our People, in all Parts of the World where they may have occasion to go, we must give up our Foreign Trade; for no *British* Subject will go Abroad to take Care of it, if he finds himself insulted and abused in every Country he comes to. Our own Colonies will desert us: If we will not protect them, they must seek for Protection somewhere else. Therefore, if we have a Mind to preserve our Trade or our Navigation, we must take Care not to be insulted: We must reassume one of our ancient Motto's: *Nemo me impune lacessit*, must be the Word in every Mouth, and the Resolution of every Assembly, within the *British* Dominions.

‘ I shall not pretend to say, my Lords, that we have Victory chain'd to our Chariot-Wheel, yet I may say, what from all our Histories will appear, that in the Wars we have been engaged in, we have always come off with Honour, when our Affairs were under a wise Administration. In a War with *Spain*, if we judge from Experience, we have more to hope than to fear. We may do them great Damage, and gain considerable Advantages to our selves, even by Privateering, or seizing their Ships at Sea. They cannot subsist, they cannot defray the Expences of their Civil Government, much less support the Charge of a heavy War, without having their Treasure brought home from *America*. If they bring it home in *Galleons* or *Flota's*, we may intercept it by our Squadrons: If they bring it home in single Ships, we shall intercept many of them by our Privateers or small Cruizers. They cannot bring it home either in *French* or *Dutch* Ships; because by the sixth Article of the Treaty of *Utrecht* between

tween *France* and us, the King of *France* is expressly obliged, Ann. 12 Geo. II.
 not to accept of any other Usage of Navigation to *Spain*, and 1738-9.
 the *Spanish Indies*, than what was practised there in the Reign
 of King *Charles II.* of *Spain*, or than what shall likewise
 be fully given and granted at the same time, to other Nations
 and People concerned in Trade. Therefore the *Spaniards*
 could not lay the Trade to their Settlements in *America* open
 to the *French*, at least the *French* could not accept of it; and
 if the *Dutch* should, they would be opposed by *France* as
 well us, which is an Opposition they would not, I believe,
 chuse to struggle with. And as for the *Spaniards* carrying on
 a Correspondence with the *Dutch* at *Curassao*, or the *French* at
Hispanolia or *Martinique*, the Course of Navigation between
 their Settlements upon the Continent and these Islands, is so
 much confined, that we might intercept every one of their
 Ships, either by our Men of War or Privateers. Besides,
 my Lords, these Expedients, or any Expedient that could
 be contrived, would lay the whole *Spanish* Nation under such
 Distresses and Difficulties, that they would be glad to accept
 of Peace upon reasonable Terms.

Thus, my Lords, we might not only reap Advantage by
 distressing them at Sea, but we might reap still greater Ad-
 vantages, and reduce them to greater Difficulties, by attack-
 ing them at Land. It would not, 'tis true, be our Interest
 to attempt making any Conquests upon the Continent of *Old*
Spain; but by having a Squadron with five or six thousand
 Land-Forces on Board, continually roving round their Coasts,
 and making Inroads upon the Country, as often as they found
 an Opportunity, we might do infinite Mischief to our En-
 emies, and often get rich Booties for our Soldiers and Seamen.
 Then with Regard to their Settlements in *America*, as we could
 prevent any Supplies of Troops or Ammunition being sent thi-
 ther from any Part of the World, we might plunder them from
 one End to the other; or, if we thought it more for our Purpose,
 we might enable them to throw off the Yoke of *Spain*, which
 most, even of the *Spaniards* that are born there, would gladly
 do, if they had any Support on which they could depend, be-
 cause of the Oppression they meet with from their Governours
 and other Officers, who are all Natives of *Old Spain*. We are
 not to judge of what may be done against *Spain* in the *West-*
Indies from our Management of the last War against *France*
 and *Spain*. It was not the Difficulty of the Undertaking
 that prevented an Attempt being made in that Part of the
 World; but we had taken so great a Share of the War in
Europe upon our selves, and were at so great an Expence,
 that we could not spare either Money or Troops for such an
 Undertaking; and as none of our Allies would join with us

Ann. 12. Geo. II.
1738-9.

in it, if we had gone upon it by our selves alone, it might have created a Jealousy in some of them, which would have been of dangerous Consequence to the grand Design ; but if the whole Confederacy had agreed to have made a vigorous Push that Way, immediately after the Battle of *Hochstet*, I believe it would have succeeded, and would have been a Means of putting an End to the War much sooner than we did ; for the *French*, as some of their Ministers have since declared, would not have been so long able to support the Expence of the War, if it had not been for the great Remittances they had from the *Spanish West-Indies*.

Now, my Lords, with regard to the Dangers we may be exposed to, even suppose *France* should join openly with *Spain* against us, if we were united amongst ourselves, and under a popular, that is, a wise Administration, we have nothing to fear from an Union of these two great Powers. We may frighten ourselves with Bugbears of Invasions, and God knows what ; but till they have a Naval Force superior to any we can send against them, we have nothing to fear ; and it would be our Fault if we allowed them to increase their Naval Force during a War. We may, 'tis true, be obliged to divide our Naval Force ; but the Naval Force of *France* and *Spain* could not all join in one Port ; we might render it almost impossible for them to do so ; and if they should, we might join our Squadrons together as well as they, in which Case we should be more than match for them. The Sea, my Lords, is our Element, and it will be our Defence, as long as we preserve our Trade, which we must lose, if we allow our Merchants and Seamen to be insulted and plundered. A War with *Spain* is, therefore, become unavoidable, if they refuse to give us Satisfaction, as well as Reparation and Security ; and if they should be joined by *France*, let the Dangers from such an Union be what they will, we must face them ; for I hope no Man will say, we are to look tamely on, and see *France* and *Spain* plundering our Merchants, abusing our Seamen, and destroying our Trade, with Impunity.

The present Circumstances of *Europe*, my Lords, I shall allow to be very different from what they were in Queen *Elizabeth's* Days ; but if she had managed her Foreign Negotiations, as we seem to have managed ours for these twenty Years past, she would have been in much worse Circumstances than at present. She was in danger of having *Spain*, *France*, and *Scotland*, joined with a powerful Party in her own Dominions, against her. Towards the beginning of the Year 1585, the Duke of *Guise* had got almost the absolute Government of the King and Kingdom of *France*, and

Philip

Phillip II. of *Spain* had just conquered *Portugal*, and had almost entirely reduced the Malcontents in *Holland* and *Flanders*. These two were in a private League against the Protestant Religion, and had very near prevailed on *James VI.* of *Scotland*, afterwards *James I.* of *England*, to join with them. In these Circumstances, if *Queen Elizabeth* had sent weak or ridiculous Ambassadors to Foreign Courts, or if she had thought only of putting off the Evil Day by temporary, annual Expedients, both she and the Protestant Religion would have been undone; but she foresaw her Danger, and resolved, therefore, to begin the Attack, before the Project of her Enemies was ripe for Execution. She sent one of the ablest and most expert Ministers then in the World, to *Scotland*, by whose Address and Intrigues she at last secured that King in her Interest. She attacked the King of *Spain* in his own Dominions, both in the *Netherlands* and the *West-Indies*; and she gave such Aid to the *Huguenots* in *France* as entirely disappointed the Projects of the Duke of *Guise*, and greatly contributed towards raising *Henry IV.* to the Throne of that Kingdom. If we had had such Foresight and Wisdom for these twenty Years past, or had employed such Ministers in our Foreign Negotiations, we should not now have been frightening ourselves with the Conjunction of *France* and *Spain* against us, nor should we have been lamenting that we have not a Friend in *Europe*, on whom we can depend for Assistance.

Though our War with *Spain* in *Queen Elizabeth's* Time continued for many Years, we are not, my Lords, from thence to conclude, that the War must now continue as long, before we can bring them to a Compliance. This Nation is now more powerful, and *Spain* much weaker, than at that Time. *Queen Elizabeth* was Queen of *England* and *Ireland* only: Our Plantations were in their Infancy, *Ireland* often in a State of Rebellion, and *Scotland* kept in Friendship with us by her Wisdom alone. On the other hand, the King of *Spain* was then Master both of *Spain* and *Portugal*, and as powerful, perhaps more powerful than at present, in the *West-Indies*: Besides which, he was then Master of the seventeen Provinces of the *Netherlands*, and of the two *Sicilies* and *Milan* in *Italy*. To this I must add, that in *Queen Elizabeth's* Time, it was not the Interest of this Nation to be at Peace with *Spain*; her Subjects made a great deal more by the War, than they could have done by an open Trade with that Kingdom; therefore she would never hear of restoring the Peace, though the *Spaniards* would have gladly sued for it to her, if they had hoped for Success, as they did to her Successor, before he was well seated on the Throne.

Ann. 22 Geo. II. Throne.

1738-9.

In *Oliver Cromwell's* Time, the War he engaged in against *Spain*, was certainly a Piece of political Wisdom : He found it necessary to establish his Government, by making some Conquest, or gaining some Advantage for the Nation abroad ; and *Spain* was the only Nation from whom he could take any thing that would be of real Advantage to this. He joined with *France*, 'tis true ; but the Power of *France* was not then formidable ; and by his getting Possession of *Dunkirk*, he opened a Door for our assisting *France* against *Spain*, or *Spain* against *France*, according as we should afterwards find proper ; and if he had lived, as he understood the Interest of his Country, he would probably have soon clapt up a Peace with *Spain*, and perhaps have joined with them against *France*, which would probably have prevented the *Pyrenean* Treaty of Peace, the Source of all the Evils *Europe* has since been exposed to ; but he died within three Months after he had got Possession of *Dunkirk*, and but a little more than three Years after he had begun the War with *Spain* ; so that the Continuance of that War is not to be imputed to any Inability we were in. of forcing *Spain* to accept of a Peace upon reasonable Terms, but to the Confusions and Distractious this Nation was in, from *Cromwell's* Death to the Restoration of King *Charles II.* when Peace between the two Nations was restored, though the solemn Treaties for that Purpose were not concluded till the Years 1667 and 1670.

Therefore, my Lords, if we judge from Experience, we must conclude, that if *Spain* is not supported by *France*, the War between the two Nations cannot be of any long Continuance ; and while it continues, if right Measures are taken, our Trade cannot suffer so much by their Privateers, as it has done for almost twenty Years by their *Guarda Costa's*. But suppose they should be supported by *France*, yet if Care be taken to remove the Discontents of our own People, and vigorous Measures pursued, I think *France* and *Spain*, even when united against us, have more to fear from us, than we have from them, though we should be so destitute of Friends as not to meet with Assistance from any one Power in *Europe*. Indeed, if we should ever have the Misfortune to be involved in a War against *France* and *Spain*, while we are under an Administration, in which neither our People at home, nor our Friends abroad, can put any Confidence, an Administration who had shewn themselves incapable of governing in Time of Peace, and who, of course, we must suppose much more incapable of governing in Time of War ; in that Case I do not know what might be the Consequence. Such an Administration would think of no-
nothing

thing but protecting themselves at home, against the Resentments of an injured and discontented People, and would, therefore neither think of, nor be able to take, proper Measures for distressing our Enemies abroad, or for protecting our Trade at Sea, or our Possessions at Land, in any distant Part of the World. Our only Safe-guard, our only Relief, would be in our Parliament; and the only Measure our Parliament could take, for the Salvation of their Country, would be, to force a Change in the Administration, and to recover the Affections of our own People, and the Confidence of our natural Allies, by punishing those, who, by their Conduct, had forfeited both.

Ann. 12 Geo. II.

1738-9.

‘ Thus, my Lords, I believe it will appear, that if we were now at Liberty to consider the Dangers we may be exposed to, and the Advantages we may reap, by engaging in a War with *Spain*, we should, upon the Comparison, find, that we have more to hope than to fear; but we have met with so many Insults, and such disdainful Treatment from that Nation, for many Years past, that if they refuse or delay to give us Satisfaction, Reparation, and Security, we have no such Liberty left, we must go to War let the Consequence be what it will; and in such a Case, I can look upon no Man as a Friend to his Country, who endeavours to terrify the People with the Dangers they are to encounter. This, my Lords, leads me of course to consider, whether we have got, by the Convention now under our Consideration, any Satisfaction, Security, or Reparation; and for this Purpose, I shall go through the several Articles; but I must first observe, that with regard to Satisfaction, there is not one Article that relates to it: It is not so much as referred to the Plenipotentiaries to regulate what Satisfaction the *Spanish* Nation shall make us, for the many heinous Indignities they have put upon us: Nay we seem, by the very Preamble, to have given up all Title to it, by acknowledging, that the Grievances have been mutual. My Lords, I defy the most eloquent Advocate for *Spain*, to shew any one Grievance we have subjected them to, or any one Injury we have done them, ever since the Treaty of *Utrecht*. By that Treaty we did them a most singular Favour, at the Expence of our antient Ally the Emperor; and we have been heaping Favours upon Favours ever since: Therefore I must think it was a sacrificing of the Truth, as well as the Honour of this Nation, to allow it to be said in the Preamble, that Grievances were alledged on each Side, as well in the *West-Indies*, as elsewhere.

‘ Then, my Lords, with regard to our future Security, I must observe, that it is of two Kinds: It relates either to the
Freedom

Ann. 12 Geo. II.

1738-9.

Freedom of our Navigation and Commerce, or to the free Enjoyment of our Possessions and Privileges in that Part of the World. As to the Freedom of our Navigation and Commerce, the only Article that relates to it, is the first, and by that we have almost in express Terms given it up; for as a noble Lord has observed before me, if it be regulated, it must be restrained, and that which is restrained, can no longer be said to be free. I was surprized to hear it said, that the *Spaniards* pretend to a Right of searching our Ships, only upon their own Coasts. Do not we know that they search them wherever they can meet with them in the *American Seas*? Do not several of the Petitions and other Papers we have before us shew, that they not only search them many Leagues out at Sea, but pretend to make Prize of them, upon the ridiculous Pretence of their having contraband Goods on board? What the *Spaniards* may mean, or what the noble Lord that spoke last may mean, by their own Coasts, I do not know: It is a Word that has no determined Signification; but whatever may be meant by the Word, it is certain that no Right or Dominion can be acquired to any Part of the Sea, no more than to any Part of the Land, but by Occupancy and Possession, which must be declared by overt Acts; for a Nation's being in Possession of the Land, gives them no Right to any Part of the neighbouring Sea; and I do not know that we have ever yet allowed the *Spaniards* to take Possession, or to claim any Right to any Part of the Seas of *America*, without the Limits of their Ports or Havens. By the Treaty in 1670, we promised, 'tis true, that the Subjects of this Kingdom should not sail to and traffick in the Ports and Havens, that have Fortifications or Magazines, nor in any other Place possessed by the King of *Spain* in the *West-Indies*; but we did not promise that our Ships should not sail along their Coasts, nor did we give them a Right to search such Ships, or to prescribe what sort of Goods or Effects they should have on board: Nay, we did not so much as give them a Right to search any of our Ships, that should be forced into any of their Ports in *America*, by stress of Weather, or any such Accident: On the contrary, we expressly stipulated, that such Ships should be allowed to depart whenever they had a mind, without any lett or Molestation. Yet that Treaty, which now seems to be the utmost we aspire to, was in those Days thought so disadvantageous for this Kingdom, that the Gentleman who negotiated and concluded it, durst never return to *England*, though he was of a good Family, and had several considerable Relations, who might have procured him a *Quietus* for any slip he had been guilty of in his Negotiations,

tions, if our Parliaments had then been as ready to overlook such slips, as some have been since that Time.

By the Treaty in 1670, my Lords, the *Spaniards* have no Right to search any *British* Ship, even in their Ports in the *West-Indies*, when such Ship happens to be forced in there by any Sea-Distress; and much less have they a Right to confiscate Ship and Cargo, on account of her having *Spanish* Money, or *Spanish* Goods on board, unless they could prove that such Money, or such Goods, had by that Ship been taken on board from some of their Settlements. Nay, in *Old Spain*, where a free Trade is allowed, they are not to search a *British* Ship, even in their Ports, till she be unladed: They are only to put Custom-House Officers, not exceeding three, on board, to see that while she is unlading, no Goods shall be landed without paying the Duties; as appears from the 10th Article of the Treaty 1667. But now, it seems, we are reduced so low, that we must grant them a Right to search our Ships within what they shall please to call their Sea Coasts, that is to say, within sight of any Land they shall please to call theirs in *America*; for that will be the Consequence: If you fix it at one League, or two Leagues from the Shore, their *Guarda Coasta's* will say, every *British* Ship that is within sight of Land, is within one or two Leagues of the Shore: Nay, farther, we must grant them a Right, it seems, not only to search, but to confiscate Ship and Cargo, if upon such Search, they find, or can steal, on board, two or three Pieces of *Spanish* Money, or any other Goods which they call the Produce of their Settlements in *America*. At this rate, my Lords, we must give up *Jamaica*, and all our Sugar Islands; for no Ship can sail either to or from *Jamaica*, without coming upon what the *Spaniards* may call their Coasts; and no Ship can return from *Barbadoes*, or any of our other Sugar Islands, without coming upon the Coasts of some of those Islands in the *West-Indies*, which the *Spaniards* call theirs; because no Ship can return from thence, without coasting along those Islands, in order to get to the Northward of the Trade Wind, before they can bear away for any Part of *Europe*.

Therefore, my Lords, the allowing them a Right or Privilege to search our Ships upon any Part of the Seas of *America*, or the allowing them a Right to confiscate a *British* Ship, on account of her having any Effects on board, which they may call the Produce of their Settlements, even though such Ship should by distress be drove into any of their Ports or Havens in that Part of the World, is what we can never grant. It is what we ought not to have negotiated

1738-9.

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Ann. 12 Geo. 2.
1738-9.

Ann. 12 Geo. II.
1718-9.

about, and much less ought we to have referred it to Plenipotentiaries to be regulated ; for if it be regulated, it must be established ; and we may judge from their late Behaviour, how well they will observe any Regulations it can be laid under.

‘ From whence, my Lords, it appears, I think, most evidently, that, instead of stipulating any Thing for the future Security of our Trade and Navigation in the *American Seas*, we have, by this Convention, almost expressly given up the Freedom both of our Trade and Navigation in those Seas. But, suppose their Right of searching and confiscating *British Ships*, that may be found sailing along their Coasts in *America*, were to be established, and put under certain Regulations, by the definitive Treaty that is to be concluded in pursuance of this Convention, surely, my Lords, considering the bad Use they have lately made of this pretended Right, we ought to have stipulated a Suspension of the Exercise of this Right, till those Regulations should be settled and agreed on by a solemn Treaty. We might have stipulated, that in the mean time, they should abstain from searching *British Ships* on any Part of the Seas of *America*, and from confiscating them, unless upon a full Proof of their having been concerned in an illicit Trade with their Settlements. But we are told, the *Spaniards* would have look’d upon this as a Stipulation for carrying on, in the Interim, a sort of free Trade with their Settlements in that Part of the World ; and farther we are told, that we could have no Occasion for such a Suspension, because we shall have a Squadron of Men of War there, that will be sufficient to protect our Trade in the mean time. This is really something extraordinary ; we must not stipulate a Suspension, because the *Spaniards* would look upon it as a Stipulation for a free Trade with their Settlements ; but we may compel it, by means of a superior Squadron. My Lords, if they could have look’d upon a Stipulation for a Suspension in such a Light, will they not look upon our making use of a Squadron for such a Purpose, as a compelling them to allow us a sort of free Trade with their Settlements ? And will not they look upon this as a Breach of this very Convention ? Let us confess the Truth, my Lords, without any Subterfuge ; they would grant us nothing that might in the least derogate from any Right or Privilege they had a mind to make use of ; therefore they refused granting us a Suspension in this Case ; but they granted us a Suspension with regard to their Fortifications and Improvements in *Florida*, because it was a Right they had no mind to make use of.

‘ I shall grant, my Lords, that a Man may have a Right to an Estate, and yet his Enjoyment of that Estate may be restrained by some Right or Servitude (which is a more proper Word than Privilege) granted to another ; but can that Man’s Right to his Estate be full and absolute ? Can that which is under a Servitude be said to be free ? My Lords, every Thing that limits or restrains the Enjoyment of a Right, must in so far diminish or destroy the Right itself. We have a Right to a Navigation and Commerce in the *American Seas* : We have a Right to a Commerce with the Continent and Islands of *America*. The first is absolute and free. Upon those Seas no Nation in the World can say to us, What dost thou ? But with regard to our Commerce with the Continent and Islands of *America*, it is restrained. By the Treaty in 1670, we obliged ourselves not to carry on any Commerce with those Places in *America* which are possessed by the *Spaniards* ; and this was the Reason we, at that time, found so much Fault with that Treaty. Therefore we ought carefully to distinguish between those two Rights. As to our Right of Navigation and Commerce in the *American Seas*, the *Spaniards* have no Right to limit or restrain it : I hope we shall never allow them, nor any Nation, to do so ; though I am told the *French* have lately begun to usurp such a Right. As to our Commerce with the Continent and Islands of *America*, the *Spaniards* may restrain it : They may prevent our carrying on any Commerce in those Places which they are in possession of ; but they can restrain it no farther : They have no Business, nor any Right, to enquire what we do in any Part of *America*, which they are not in actual possession of. But if we approve of this Convention, and such a definitive Treaty be concluded as may be expected, and dreaded, from such a Preliminary, I do not know what Rights they may acquire. They may acquire the Right they pretend to ; which is a Right to prescribe to the Ships of *Great Britain* what Course they shall steer, and what Goods they shall carry, from one Part of the *British* Dominions to another.

‘ My Lords, it was a Concession in us, to allow them to exclude the Subjects of this Kingdom from carrying on any Commerce in their *American* Dominions : It was thought too great a Concession when it was first granted. But, I hope, no *British* Subject will say, that we ought, or can allow them to make any Regulations at Sea for preventing such a Commerce ; and therefore I was surprized to hear it said, that we had not Time to settle such Regulations, or to convince them of the Injustice of the Regulations they have made ; for if they insisted upon making such Regulations, or upon the Justice of those they had made, the only proper Answer

Ann. 12 Geo. II.
1738-9.

Ann. 72 Geo. II.
1738-9.

was, a Declaration of War ; and this, I am convinced, is what it must at last come to. But suppose there had been some Difficulty in the Case at first, have we not had Time enough to understand one another ? Have we not been negotiating about the very Points now in dispute between us, for Ten or a Dozen Years, without Intermission ? Could not we know, in all that Time, what *Spain* would do, or how far they would disclaim the Rights they have lately usurp'd upon us ? My Lords, I am convinced some of our Negotiators do know : I am convinced they know, that *Spain* will grant us no Security, nor disclaim any Right they have lately set up, unless they are forced to it by a vigorous War ; and therefore, I must look upon this Convention as a mere Contrivance for putting off the Evil Day : An Expedient for this Session ; and the Prolongation of the Term hereby stipulated, will, I suppose, be an Expedient for the next, perhaps for two or three ensuing ; during which the *Spaniards* will continue to plunder our Merchants, and interrupt our Trade, as usual.

Now, my Lords, with regard to the free Enjoyment of our Possessions and Privileges in *America*, the only Article that relates to it, is the 2d, and that relates only to *Georgia* ; but how does it relate to it ? By what, I am sure, the *Spaniards* will call, giving it up. If the *Spaniards* pretended to dispute Limits with us, it was a most ridiculous Thing in us to allow that Dispute to be carried so far as to the Southern, perhaps near the most Northern Bounds of *North-Carolina*. It was the same as if we had sat down to hazard, and had staked *North-Carolina*, *Scutib-Carolina*, and *Georgia*, against the insignificant *Spanish* Fort called *Fort-Augustine* ; for that is the only Fort or Settlement the *Spaniards* have in *Florida*. I shall grant, the Suspension stipulated in this Article is mutual, but, my Lords, it is far from being equal. We suspend fortifying or improving three large Countries or Provinces already planted, already greatly improved, already inhabited by numbers of our own People, and which we were resolv'd to fortify and improve as fast as possible. On the other Hand, the *Spaniards* are to suspend fortifying and improving one single Province, not so large as any one of our three, and that, a Country entirely Waite, or inhabited only by such as are their Enemies, except one little Fort, and a Country which they had no Intention either to plant, improve, or fortify. But is *Georgia* the only Possession or Privilege we have in *America*, which the *Spaniards* now pretend to dispute with us ? Why is there no Mention made of our ancient Settlement in *Campechey* ? Of our Right to cut Logwood in the Bay of *Honduras* ? Or of our Right to gather

ther Salt in the Island of *Tortugas*? Are these Possessions and Rights which are not worth contending for? Or are they to be given up, or relinquished, for the sake of an infamous Peace? It would seem so by this preliminary Convention; and therefore I must conclude, that, instead of stipulating any future Security for the free Enjoyment of our Possessions and Privileges in *America*, we have, tacitly at least, given up by this Convention, every Possession, every Right, every Privilege, which the *Spaniards* now pretend to dispute with us in any Part of *America*.

Ann. 12 Geo. II.

1738-9.

In lieu of these most extraordinary Concessions, one might expect, my Lords, that we had got the most ample, the most compleat Reparation for all the Damages we have sustained, and all the extraordinary Expence we were put to; but we were too modest, it seems, to ask any Re-imbursement of Costs; and if the Payment stipulated by the third Article, which has been so much boasted of, be closely examined, and stripped of that artful Disguise in which it is dressed up, we shall find, that we have given a free Discharge for all past Damages, without obtaining one Shilling of Reparation, except as to what relates to four or five Ships, which the King of *Spain* had ordered to be restored, before this Convention was thought of. But this has been put in so clear a Light, by the noble Lord that spoke last but one, that I need not enlarge upon it; and therefore, I shall only take notice of some things, that fell from the noble Lord that spoke last. He was pleased to tell us, that the *Spaniards* made a Demand of 5 or 600,000 *l.* upon us, and seemed highly to commend our Dexterity at Negotiation, in prevailing upon them to accept of 60,000 *l.* in full of such a high Demand. My Lords, if there was not the least Pretence for setting up any Demand against us, we ought to have looked upon their setting up such a Demand, as a fresh Insult; and therefore, instead of allowing any Part of it, we ought to have rejected it with Contempt. The 95,000 *l.* stipulated in this Article, is, therefore, the only Sum we are to receive by way of Reparation; and of this Sum our own *South-Sea-Company* is to pay 68,000 *l.* For whatever the noble Lord may think of the King of *Spain*'s Protestation, as he declares, that under the Validity and Force of that Protest he signed this Convention, I am convinced he looks upon the Payment of that Money by our *South-Sea-Company*, as the Condition upon which alone he stands obliged to pay the 95,000 *l.* stipulated by this Article; and I will engage, that not one Shilling of the 95,000 *l.* shall be paid to us by the King of *Spain*, unless the 68,000 *l.* be first paid to him by our Company. Therefore, all the Reparation the King of *Spain* is
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Ann. 22 Geo. II.
1738-9.

to make, is the 27,000 *l.* which is the Difference between 95 and 68,000 *l.* And for this 27,000 *l.* his Catholic Majesty, or his Subjects, are to retain Possession of, and convert to their own Use, the five *British* Ships which he had before ordered to be restored; for, by the fourth Article of this Treaty, if any Part of any of these Ships has been, or shall be restored; it is to be deducted out of the 95,000 *l.*

* This, my Lords, is really such a Juggle, such a farcical sort of Reparation, that I cannot but imagine, that when *M. de la Quadra* found our Negotiators willing to accept of it, he went smiling to his Master, and told him, he had got the *English* to accept of such a sham Reparation, as no *Indian* Nation in *America* would have been amused with. Well, says his Catholic Majesty, what have you done with the Poltroons? Their Merchants are to have 155,000 *l.* in full for all the Depredations your Subjects have committed upon them for almost twenty Years past, answers the Minister. What, replies the Sovereign, 155,000 *l.* how can you pay it? For I will not give them one single Farthing. No, no, says the Minister; 60,000 *l.* one Part of it, they are to raise by a Tax upon themselves; 68,000 *l.* another Part of it, their *South-Sea-Company* is to give me, and I am to return it to such Commissaries as they shall appoint, for distributing it among their Merchants; and for the remaining 27,000 *l.* they are to allow your Majesty to keep the five Ships, and their Cargoes, which you had given Orders to restore: Now, as these Ships were certainly most unjustly taken, and more unjustly confiscated, the Captors must now account to your Majesty, instead of accounting to the *English*, for the full Value, which I reckon will amount to, at least, 35,000 *l.* so that instead of your paying them any thing for Reparation, they have, in effect, paid you at least 8000 *l.* for giving them the Pretence of a Reparation. My Lords, *M. de la Quadra* may have some private Reasons for not looking upon our Negotiators as downright Fools; but, if we approve of such a Reparation, I am sure the *Spanish* Nation will have Reason to look with greater Contempt upon this, than upon any Nation of native *Indians* in *America*.

* After having thus shewn, that we have got no Reparation by this Convention, we need not, I think, my Lords, much trouble our Heads about the Value put upon our Losses by our Commissaries; but I think it sufficient for discrediting their Report, that one of them who was examined at our Bar, could give no distinct Reason for reducing the Claim of our Merchants from above 400,000 *l.* to 200,000 *l.* If they had vouchsafed to have given us any Reasons for such an extraordinary Reduction, I am convinced it would have been

been easy to have shewn, that their Reasons were frivolous ; Ann. 12 Geo. 1st
 and till they do assign their Reasons, every Man must suppose 1738-9.
 they had no Reason ; for the Characters of our Merchants,
 who gave in their Claims, many of them, if not all, upon
 Oath, are as good as the Characters of our Commissaries.
 But, supposing the Reduction made by our Commissaries
 had been just, the Value of the five Ships mentioned in the
 fourth Article of this Convention, or at least of the four
 last, could be no Part of the 200,000 *l.* at which they com-
 puted our real Losses ; because the four Ships last mentioned,
 were taken since our Commissaries returned from *Spain* ; and
 the first mentioned, I mean the *Woolball*, was taken long
 after the Treaty of *Sevilla*, and could therefore be no Part
 of any of those Pretensions, that were referred to Commis-
 saries by that Treaty. For this Reason, if the 95,000 *l.*
 to be paid by the King of *Spain* and our *South-Sea-Com-*
pany, had been looked on as a Reparation for that 200,000 *l.*
 only, we ought to have stipulated the entire Restitution of
 these five Ships, without allowing any Deduction from the
 95,000 *l.* on account of that Restitution ; but, in this Case,
 the King of *Spain* must have paid us out of his own Pocket
 27,000 *l.* by way of Reparation for 200,000 *l.* which was,
 it seems, what he was resolved not to do ; and therefore, by
 this Article, we have allowed him to keep these five Ships,
 which he had before agreed to restore.

‘ This, my Lords, was, I shall allow, extremely com-
 plaisant, and since we shewed so much Complaisance to him
 in the Point of Reparation, he should, I think, in good
 Manners, have shewed some Complaisance to us in the
 point of future Security ; but his Catholic Majesty, it seems,
 in every Point, acted the Part of a stubborn, haughty *Spa-*
niard, and we, I do not know what. In former Days, my
 Lords, we used to be as stubborn as any of our Neighbours ;
 and to shew that we were so, as the noble Lord that spoke
 last was pleased to mention the Treaty between *Oliver Crom-*
well and the *Dutch*, I shall beg leave to examine that Trea-
 ty, because the Circumstances of the then Disputes between
 us and the *Dutch*, were something parallel to the Disputes
 now subsisting between us and *Spain*. The *Dutch*, ’tis true,
 had not for many Years before done us any Injury, nor had
 they any way interrupted our Trade ; but in a former Reign,
 in which the only Maxim of Government was, That Peace
 was better than War, as it seems to be at present, the *Dutch*
 had done us a very heinous Injury, which had never been pro-
 perly resenting ; and they had begun to dispute with us the Ho-
 nour of the Flag. Therefore, our Demands upon the *Dutch*
 were, That they should give us Satisfaction for the Insult
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Ahn. 12 Geo. H. they had many Years before put upon us, Reparation for the Damage they had done, and Security for our future unmolested Enjoyment of that Right, called, The Honour of the Flag.

1738-9.

‘ How did *Oliver Cromwell*, my Lords, provide for these several Demands, by the Treaty he made with the *Dutch*? By the 27th Article it was expressly provided, ‘ That the ‘ United-Provinces should take Care, that Justice be done ‘ upon those who were Partakers or Accomplices in the Massacre of the *English* at *Amboyna*, provided any of them be ‘ living.’ I must observe, my Lords, that this Proviso was necessary; because this Massacre was perpetrated in the peaceable Reign of *James I.* above thirty Years before this Treaty. Then, with regard to Reparation, *Oliver’s* Negotiators did not lump it, as our present Negotiators have done by this Convention; no, my Lords, the Quantum of that Reparation was, by the 30th Article of the same Treaty, to be adjusted by Commissaries, respectively appointed, who were to meet, not in *Holland*, but at *London*, and to determine it in three Months, or upon their Failure, it was referred to the Protestant *Swiss* Cantons, who were to give Judgment within six Months; and we know that the *Dutch* actually paid a very large Sum of Money upon this Account. Lastly, with regard to our future Security: Though it related to nothing but a Point of Honour, *Oliver* knew well the great Consequence of a trading Nation’s being jealous of its Honour; and therefore, he took Care nor to refer such a Point to Commissaries; for by the 13th Article of that Treaty, it was expressly provided, ‘ That the Ships and ‘ Vessels of the said United-Provinces, as well those of War ‘ as others, which should meet any of the Men of War of ‘ the Republic of *England* in the *British* Seas, should strike ‘ the Flag to them, in the same Manner as was ever observed at any Time before, under any former Government.’

‘ As to the 10,000*l.* mentioned by the noble Lord that spoke last, it was not paid on account of any Damage done to this Nation before the War commenced. It was paid, my Lords, on account of some *English* Ships, that had been seized and detained in the Dominions of the King of *Denmark*, after the Commencement of the War; and as they were seized at the Instances of the *Dutch*, *Oliver* insisted, that the *Dutch* should make good the Loss; and accordingly, by the 28th Article of the same Treaty, a Stipulation was made for this Purpose, which deserves our particular Notice upon this Occasion. By this Stipulation, the States General obliged themselves, that those Ships and Goods, which were

remaining

remaining in specie, together with the true Value of those that had been sold, embezzled, or otherwise disposed of, should be restored within a Fortnight after the Arrival of those who were to go to reclaim them; and also, that the Losses which had accrued to the *English*, by their being detained, should be made good, according to an Appraisement to be made by Commissaries therein named; which Commissaries were to meet on the 27th of *June*, a little more than two Months after the Ratification of the Treaty, at *London*; and after the first Day of *August* then next ensuing, unless they agreed before hand, they were to be shut up in a Room, separate from all other Persons, without Fire, Candle, Meat, Drink, or other Support, till they had agreed of the Matters to them referred. The States likewise obliged themselves to pay 5000 *l.* within two Days after the Exchange of the Ratifications, to the Merchants, for the Expence of their Voyage to *Denmark*, to reclaim their Ships; and 5000 *l.* more, within six Days after their Arrival there, for refitting and repairing their Ships for their Return. And for the Performance of these Conditions, they farther obliged themselves, that Bond should be given by sufficient Men, living here at *London*, for 140,000 *l.* The 10,000 *l.* mentioned by his Lordship was, therefore, only a Part of the Reparation that was to be made for this particular Damage; for we know, that the Commissaries, by their Award, dated the 31st of *July* that Year, the Day before they were to have been enclosed, declared, that the whole Damage amounted to 97,973 *l.* which was accordingly paid at *London*, and distributed among those concerned.

I wish, my Lords, our late Negotiators had read this Treaty: They might from thence have seen what was meant by Satisfaction, Reparation and Security; for, I think, I have now clearly shewn, that, by this Convention, we have obtained no Satisfaction, no Security, no Reparation; nor so much as a Promise for any one of them. On the contrary, we have, by this Preliminary, either expressly or tacitly, given every one of them up; and shall a *British* Parliament approve of such a Treaty? Shall the *British* Nation hug itself in the precarious Enjoyment of such an infamous Tranquillity? Where can a *British* Merchant go to carry on any Foreign Trade? What Foreign Port can a *British* Ship put into? They must expect to be insulted, abused, and plundered, by every Nation they deal with; and under such a Misfortune, can we expect to improve the Circumstances of our Affairs, either at home or abroad? My Lords, by our late Conduct, we have brought ourselves into a Necessity of going to War, let the Consequence be

Ann. 11 Geo. II.

1738-9.

never so fatal. A Man who submits tamely to a small Affront, is sure to meet with a heinous one; and then he must fight; whereas, if he had resentèd the first with Spirit, he might have obtained Satisfaction without Danger, and would have prevented his meeting with a second. If we had properly resentèd the first Injury we met with from *Spain*, if upon the first Insult or Encroachment, we had peremptorily demanded Satisfaction, we might have obtained it by peaceable Means; but now it is become too weighty for Negotiation: We can find it only at the Point of our Sword; and there, I trust in God, we shall still be able to find both Satisfaction and Security.

‘ After what I have said, my Lords, I think, I have no occasion to consider our Circumstances, either at home or abroad; because I have, I believe, made it appear, that a War is become unavoidable, unless we have a Mind to continue under such an infamous Peace, as must render our Circumstances every Day worse and worse. Nor do I think, that, upon the present Question, I have any occasion to enquire into the Cause of the present Situation of the Affairs of this Nation, or of *Europe*; but if it were necessary, I believe, I could shew, that it is entirely owing to the Measures we have followed for almost these twenty Years. I could shew, that the same Conduct, which has now at last made a War unavoidable, has rendered us almost incapable of carrying it on with Vigour or Success; but thank God, we are not yet altogether so: This Nation has many and great Resources; and if they are put under a right Conduct, we may still be able to recover our Friends, and revenge ourselves of our Enemies; therefore, I hope, no Man will so far despair, as to approve of any Preliminary, that may lead us into an infamous Treaty of Peace.’

The Earl of *Illa*.

The Earl of *Illa*, ‘ My Lords, whatever Influence Wit or Eloquence may have upon this Assembly, however improper it may be to make use of either in this House, it must be acknowledged, that a great deal of both has been made use of upon this Occasion; and I must say, that in this Debate, a sort of Eloquence has been made use of, which may be frequent at a certain Place at t’other End of the Town, but cannot, I am sure, be said to be either proper or decent in this Assembly; for a great many very harsh Epithets have been given to the Convention now before us, which, considering the Place where we are, I think, ’twould have been better to have let alone, even though the Convention had

had been as bad as it has been represented; but 'twill be found, I believe, upon a serious Examination, that they are such as it no way deserves. By endeavouring to shew this, I do not know, but that, in the Humour some Lords seem to be at present, I may be called an Advocate for *Spain*, as well as some other Lords who have spoke before me, upon the same Side of the Question; but whatever I may be called, either within Doors or without, I am resolved, while I sit here, to speak my Sentiments freely, and to declare openly, what, I think, will conduce most to the Service of my King, and the Good of my Country. This is my Duty, this is the Duty of every Member of this House, and therefore, I think it as wrong to affect Popularity upon any Occasion, by chiming in with those Prejudices which may have been accidentally taken up, or artfully raised, among the People, as it is to shew a blind or a slavish Compliance to the Ministers of the Crown.

Ann 12. Geo. II.

1738-9.

Whether we have got a proper Satisfaction, or a full Reparation, for the Injuries that have been done to us, are Questions that have been so fully spoke to by the noble Lords who have already spoke in Favour of this Convention: By them it has been so clearly demonstrated, that we could not expect, nor ought to have insisted upon greater Satisfaction or Reparation, from a Nation whose Friendship we ought to court, that it would be vain, if not arrogant in me, to attempt to set that Matter in a clearer Light. Besides, my Lords, there are Articles, which in all Negotiations admit of a little yielding or softning, and particularly in our Negotiations with *Spain*, we ought never to allow them to be of any extraordinary Weight. If we can get the other Disputes, which now subsist between *Spain* and us, adjusted to our Satisfaction: If we can obtain a reasonable Security for the future unmolested Enjoyment of our Navigation and Commerce in the *American* Seas, I think it would be very prudent in us to yield a little upon the Head of Satisfaction and Reparation: At least, I must think it would be imprudent in us to engage in a War with *Spain*, and at this juncture too, for the sake of having a *Spanish* Governor, or Captain of a *Guarda Costa*, hanged, as many of them certainly deserve for their Behaviour towards us; or for the sake of obtaining 50, or even a 100,000 *l.* more, for making good the Damages our Merchants have sustained.

The Article of Search or no Search, is therefore that which we ought principally to regard in our present Contest with *Spain*; and this, my Lords, I must observe, is a mutual Claim. We pretend to a Right of searching the Ships,

even,

Ann. 12 Geo. II.

1738-9.



even of Foreigners, upon our own Coasts, as well as the *Spaniards* do upon theirs, especially when there are Grounds to suspect, that any such Ship has been employed, or is going to be employed, in carrying on an unlawful Trade with our Subjects, or in our Dominions. It is a sort of Liberty we take, it is a sort of Liberty every Nation takes, *Hanc petimus damusque vicissim*; and neither the *Spaniards* nor we have given it up, by referring it to be regulated by Plenipotentiaries. Nay, even in the open Seas, in the middle of the wide Ocean, if one of our Men of War should, upon visiting a Ship they meet with, find cause to suspect, that her Passports or Sea-letters were forged, or should find cause to suspect from what they saw on Board, that the Ship had been concerned in any piratical Practices, I believe they would take the Liberty to break through the Rules prescribed by Treaties for visiting Ships at Sea, and would search such a Ship, in order to discover whether their Suspicions were well or ill grounded. This is a Liberty which the armed Ships of every Country take, even upon the high Seas; it is a Liberty which every Country must indulge to another, for the sake of discovering and apprehending Pirates; therefore, it is a Liberty that no Nation can complain of, unless when it is turned to a bad Use, and then it is not the Right or Liberty, but the Use made of it, that affords a just Cause of Complaint.

‘ The Liberty of searching the Ships of Foreigners upon the high Seas, on Suspicion of Piracy, is a Liberty that is established and regulated by the Law of Nations alone; but the Liberty which every Nation enjoys, of searching, on Suspicion of unlawful Trade, the Ships of Foreigners that approach near to their Coasts without any Necessity, is a Liberty that is not only established by the Law of Nations, but is generally regulated by the particular Laws or Customs of each respective Society. In this Country it is established and regulated, not only by immemorial Custom, but by several Acts of Parliament; and it is impossible for us, by any Precautions we can take at land, to prevent the Exportation of our Wool, the Importation of prohibited Goods, or the clandestine Running of Goods in upon us without paying the Duties, unless we take the Liberty of searching such Ships, upon our own Coasts, as give just Cause to suspect their being concerned in, or designed for, some such unlawful Trade. This, my Lords, has been found by Experience to be true; and therefore by an Act of the 10th and 11th of the late King *William*, it was provided, ‘ That our Admiralty should appoint two Fifth Rate, and two sixth Rate Ships, and eight armed Sloops, to cruize on the Coasts

‘Coasts of *England* and *Ireland*, to seize all Ships and Vessels exporting Wool to foreign Parts.’ Now, my Lords, if any of the Men of War, or armed Sloops thus employed, should see a *French* Ship hovering, or lying at Anchor within a few Leagues of our Shoar, and Boats passing and repassing between her and the Land, are we to suppose that they are only to visit such Ship, according to the Rules prescribed by Treaty, and to give entire Credit to her Passports, or Sea-letters? If they did, they would always find her bound from some Port of *France*, to some Port in *Norway* or the *Baltic*; or from some Port in *Norway* or the *Baltic*, to some Port of *France*; yet, nevertheless, she might be half loaded with our Wool, and waiting at that Place for the rest of her Cargo; therefore, in such Cases, it is absolutely necessary to make some sort of Search, and we have always done so, without any Nation’s having complained of our making, by such a Practice, any Encroachment upon the Freedom of their Navigation and Commerce.

Ann. 12 Geo. II.

1738-9.

‘The Case, my Lords, is the same with regard to Smuggling: It was found by Experience, that all the Precautions we could take at Land, could not prevent that pernicious Trade, and therefore we have, by several Acts of Parliament, enforced and regulated the Right we have by the Law of Nations, of searching, as well as visiting, such Foreign Ships as approach our Coasts, and give just Cause for suspecting their being concerned in, or designed for carrying on any contraband Trade. For this Reason, we ought to be cautious of denying this Liberty or Privilege to any Nation; for if we do, every Nation in *Europe* will say to us, *With what Measure ye mete, it shall be measured to you again*: As you will not allow us to search your Ships upon our Coasts, we will not allow you to search our Ships upon your Coasts; and if by this Means we should be debarred searching any Foreign Ship upon our own Coasts, it would be impossible for us to prevent Smuggling, or the Exportation of our Wool. Not only the *Dutch* and *French*, but all Nations that had any Use for it, would soon fall upon Ways and Means to steal away from us as much of our Wool as they could have occasion for, to the great Prejudice, if not the utter Ruin of our Woollen Manufacture.

‘This, my Lords, would be a much greater Loss to us, than the exporting of Gold or Silver from *Spain*, or from the *Spanish* Settlements in *America*, can be to that Nation. For in their present Circumstances, it is ridiculous in them to prohibit the Exportation of that Commodity. If they could make their Prohibition effectual: If they could absolutely prevent the Exportation of Gold or Silver from any

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Ann. 12 Geo. II.

1738-9.

Part of their Dominions, they would, in their present Circumstances, soon come to be like *Midas* in the Fable: Many of them would have nothing to eat, drink, or cloath themselves with, but Gold or Silver; and then they would be glad to give every Nation a Licence to export both the one and the other, in order to have those Necessaries and Conveniencies of Life they stand in need of, and cannot have in their own Dominions. This we know to be often the Case of some of their Settlements in *America*; and when it is, their Governors always send Licences to some of our Plantations, not only to come and trade in the *Spanish* Settlements, but to export Gold and Silver, and whatever else they please to take, in return for the Provisions or Necessaries they carry thither.

But with regard to our Wool, my Lords, the Case is very different. It is a Commodity much more valuable than Gold or Silver; because it is a Commodity absolutely necessary, or, at least, extremely convenient, for all Nations that live at any Distance from the Torrid Zone; and as it must be manufactured before it can be fit for Use, a great many industrious and faithful Subjects are always employed in that Manufacture. Now, as we do not prohibit the Exportation of it when manufactured, but, on the contrary, encourage it, as much as we can, the Exportation of it, when fully manufactured, will, I hope, be always sufficient for furnishing us with every Thing we stand in need of, for Luxury, as well as Necessity and Conveniency, from any Country in the World; therefore we can never be under any Necessity to export it unmanufactured; and as none of our Neighbours can carry on Woollen Manufactures, especially those of the Middling Sort, without having some of our Wool to mix up with their own, as the manufacturing for our Neighbours, as well as ourselves, must employ a great many more Hands, and bring a greater Advantage to the Nation, than if we were to manufacture for ourselves alone, we ought to take all possible Methods for preventing the Exportation of this Commodity, till it has been fully manufactured by our own People.

This, my Lords, shews the Wisdom of those Regulations we have made both by Land and Sea, for preventing the Exportation of our Wool; and, at the same time, it must shew how unwise it would be in us, to introduce, among the Nations of *Europe*, any political Maxim, which, if we were obliged to observe it ourselves, might render it extremely difficult, if not altogether impossible, for us, to prevent our Wool's being stolen away from us; and that this would be the Consequence, if we were to abstain from searching any foreign

Foreign Ship upon our Coasts, Experience itself must convince us. But this, my Lords, is not the only Inconvenience we should be liable to at present, if we should be obliged to give up, or pass from this Right of searching Ships upon our own Coasts; for while our present high Duties continue upon all Foreign Goods imported, it would be impossible for us to prevent Smuggling, without the Exercise of this Right; and if we take such a Liberty with the Ships of neighbouring Nations upon our Coasts, we must allow them to take some such Liberty with our Ships upon their Coasts; otherwise, we may run the Risk of uniting all the Powers of *Europe* in an Association against us.

Ann. 22 Geo. II.

1738-9.

For this Reason, my Lords, the Question, Whether we ought to allow the *Spaniards* a Right or Privilege to search, upon just Grounds of Suspicion, any of our Ships that shall approach their Coasts without Necessity, seems to be a Question that may admit of some Sort of Difficulty. They may insist upon it, as a Right derived to them from the Law of Nations, and confirmed by our own Practice in similar Cases; and it is a Privilege which we may allow them, without acknowledging that they have any thing like an *Imperium Maris*, with regard to the Seas of *America*. As for this *Imperium Maris*, or Dominion of the Seas, there may be some such Thing, for what I know: I believe we have a just Pretence to such a Dominion, with regard to the *British* Seas; but I must observe, that a very great Author has said, *That it is rather to be imagined than explained*. It is a Subject that has employed the Pens of many learned and ingenious Men; but they differ so much from one another, and sometimes from themselves, that there is no Possibility of forming a certain and distinct Notion of it from what they have wrote upon the Subject. They have divided and subdivided it a great many different Ways; which it would be needless, as well as tedious, to give an account of; but the most material Division I have taken Notice of, is that by which it has been divided into *Imperium proximum* and *Imperium remotum*; the former being that *Imperium* which a Nation may acquire, and every Nation pretends to, upon what they call their own Coasts; and the latter, that which a Nation may acquire upon what we call the open Seas, either by Treaty, or by the tacit Concession and long Sufferance of its Neighbours.

But here again, my Lords, a new Difficulty occurs; for, what may be called the Coasts, or what may be called the open Seas, is a Question that is not determined by the Authors that have wrote upon the Subject, nor has it lately been determined by Treaty, so far as I know, between any two Nations in *Europe*. The greatest Authority I can think of,
that

Ann. 12 Geo. II. that can any Way be made use of for determining this Point,
 1738-9.

by which they gave to the great *Pompey* the Command or Government of the Sea, for suppressing those Pirates that then infested the *Mediterranean*; for, as by that Decree they extended his Command or *Imperium* as far as four hundred *Stadia*, which is about thirteen or fourteen Leagues, over the whole Continent or Land adjoining to the Sea, it may be supposed, they reckoned that the Sea-Coast, which always includes Land as well as Sea, extended fourteen Leagues up the Country, and consequently fourteen Leagues out at Sea. But no modern Nation will, I believe, admit that what we now call Sea-Coast, can be either Way so far extended.

‘ Having thus shewn what the *Spaniards* may say in Favour of the Right or Privilege they pretend to have of Searching, as well as Visiting our Ships, upon what they call their Coasts in *America*, when such Ships, by their approaching too near, or by other Tokens, give Cause to suspect, that they are concerned, or designed to be concerned in some illicit Trade; I shall now, my Lords, endeavour to shew what may be said on our Side. With regard to any Liberty or Privilege we may take with the Ships of Foreigners sailing upon the *British* Seas, we may justly say, my Lords, that no Argument can, from hence, be drawn in Favour of any Right the *Spaniards* may pretend to in the Seas of *America*; because we have an *Imperium* or Dominion over the *British* Seas, established to us by Custom immemorial, and acknowledged by almost all the Nations of *Europe*: Whereas the *Spaniards* can pretend to no such *Imperium* over the *American* Seas, nor ought we to allow them to exercise any Liberty or Privilege that may be a Foundation for their claiming such an *Imperium* in any future Time. Then, with regard to what may be called the Sea-Coast of any Country, we may say, that, by the Law of Nations, nothing ought to be called Sea-Coast that is within the common Course of Sailing from one Country to another; and that therefore nothing but Creeks or small Bays ought to be reckoned within the Sea-Coasts of any Country, or such Places in the Sea which are so land-lock’d that no Ship would chuse to get within them, unless she drove thither by Strefs of Weather, or has some other Design than that of sailing along the Coasts of that Country. This, I say, my Lords, we may insist on as the general Rule for determining what may be called the Sea-Coasts of any Country; and this ought to be the Rule in the *American* Seas, especially within the Tropics, rather than any other, because the Winds

and Currents in that Part of the World, not only make Ships chuse, but even force them to sail along, almost close in with the Shore of some of the Islands or Continent of *America*, as has been extremely well explained by a noble Lord, who spoke some time since upon the other Side of the Question.

Ann. 12 Geo. II.

1738-9.

‘To this, my Lords, we may add, that tho’ an *Imperium* or Dominion may be acquired over some Seas, or some particular Parts of the Ocean, yet that Dominion, like Property in Lands, must be acquired by some Overt-Acts, which declare the Intention of the Possessor, and the Cession or Resignation of the rest of Mankind; and as no such Overt-Acts have ever been done by the *Spaniards*, and peaceably submitted to for any time by other Nations, in the Seas of *America*, therefore those Seas ought to be look’d on as a large Common, lying between the *Spanish* Dominions and ours, no Part of which they can appropriate, nor assume any Jurisdiction over it, without our Consent; and I am sure we may justly say, that the late Behaviour of some of their *Guarda Costas*, and the Delays we have met with in obtaining Justice from their Court, have given us a very good Reason, never to allow them to assume the least Degree of Jurisdiction in any Part of the *American* Seas, where our ships may be obliged, or have Occasion to sail.

‘From what I have mentioned, my Lords, of the Arguments that may be made use of upon both Sides of the Question, I believe it will appear, that the real Dispute between *Spain* and us, I mean that which is of the greatest Consequence, is not about our Right to a free Navigation and Commerce in the *American* Seas, but about their Right to search Ships upon what may be called their own Coasts. The Right to be regulated by the Plenipotentiaries, respectively appointed by this Preliminary, is not our Right to a free Navigation and Commerce in those Seas, but their Right to do what every Nation does, I mean, to visit, and even to search, upon just Cause of Suspicion, such Ships as come within what may be called their Sea-Coasts; and it is their late Behaviour, not ours, that makes the regulating of this Right necessary. They have lately extended what they call their Sea-Coasts so far out in the Ocean, and they have searched so many of our Ships without Cause of Suspicion, and confiscated so many of them without any Pretence of Justice, that it is become necessary to lay them under some Restraints or Regulations; and these Restraints and Regulations are to be settled and agreed on by the Plenipotentiaries respectively appointed. That they have Sea-Coasts in *America*, is what no Man will deny; and that they have some

Ann. 12 Geo. II. Sort of Power or Jurisdiction over those Sea Coasts, is what I think, can be as little denied. Nay, we seem to have acknowledged it by Treaty; for as our *South-Sea* Company got, by the *Affiento*-Treaty or Contract, the sole Privilege of introducing Negroes into the *Spanish* Settlements in *America*, it was by the 18th Article of that Treaty agreed,

1718-9.

‘ That when the *Affientists* should have Notice that any Ship with Negroes (not belonging to them) was come upon the Coast, or entered into any Port, they might fit out, arm, and send out immediately such Vessels as they should have of their own, or any others belonging to his Catholic Majesty, or his Subjects, with whom they should agree, to take, seize, and confiscate such Ships and their Negroes, of whatever Nation or Person they might be, to whom the same should belong; to which end the said *Affientists*, and their Factors, should have Liberty to take Cognizance of, and search all Ships and Vessels that should come upon the Coasts of India, or into its Ports, in which they should have reason to believe, or suspect, that there were contraband Negroes. Provided always, that for the making of such Searches, Visits, and other Proceedings before mentioned, they should first have Leave from the Governors, to whom they should communicate what occurred, and desire them to interpose their Authority.’

‘ These, my Lords, are the Words of the Treaty; and if the Court of *Spain* could delegate a Power to our *South-Sea* Company to search such Ships as came upon the Coasts of *India*, in which they should suspect they were contraband Negroes, as by our accepting of this Article, we have acknowledged they could, surely we must allow, that they have a Power to search such Ships as come upon the Coasts of *India*, in which they may suspect there are any other sort of contraband Goods; by which I mean, and by which they can only, with any Justice or Propriety, mean, such Goods as are designed to be imported into, or have been exported from, their Settlements in *India*, contrary to the exclusive Privilege enjoyed by the Subjects of *Spain*, and confirmed to them by the Treaties subsisting between them and us. This Power, my Lords, I say, we must allow them; but we must not allow them to make a bad use of it, or to extend what they call their Coasts, so far as may give their *Guarda-Costas* a Pretence to interrupt our lawful Trade or Commerce in those Seas; and as they have done so for some Time past, it is become necessary for us to lay this Power under such Regulations, as may prevent such Practices in Time to come: This, I hope, will be done by the definitive Treaty that is to be concluded; but as the contriving and settling

settling these Regulations required a most mature and serious Deliberation, it could not be done so as to make them a Part of this Preliminary Treaty ; and therefore it was necessity to refer this Matter to the Plenipotentiaries.

Ann. 12 Geo. II.

1738-9.

What Liberty we may allow to the *Spaniards*, with regard to searching our Ships at Sea, or upon what they call their own Coasts, or whether or no we ought to allow them any such Liberty, or if we do allow it, what Restraints and Regulations it ought to be subjected to, are Questions, my Lords, that cannot, I think, come before us upon this Occasion : All I design by what I have said upon this Head, is to shew, that the Dispute between the *Spaniards* and us about Search or no Search, is of such a Nature, that it could not be immediately determined. If we had been at War with *Spain*, and had reduced them to such Distress, that they must have agreed to any Thing we thought fit to propose, the Dispute might have been easily ended ; because, as it would be our Interest to have a free Trade to the *Spanish* Settlements in *America*, as we shall always reap the more Advantage, the more Trade our Subjects have with them, therefore if we cannot obtain a free Trade, it is our Interest not to admit of any Thing that may prevent or obstruct an illicit Trade ; and for this Reason, if we had prevailed so far as to have the drawing up of the Articles of Peace, if the *Spaniards* had been forced to present us with a *Carte Blanche*, we ought certainly to have stipulated no Search any where but in their Ports or Harbours, when our Ships happened to be forced in there by Sea-Distress. But this, my Lords, was not our Case when this Treaty was negotiated : We were treating upon equal Terms : We were negotiating to prevent a dangerous War, and not to put an end to a successful one ; and in these Circumstances it was impossible for us to adjust and finally settle a Dispute of such a Nature in so short a Time. If it be finally adjusted and settled in the eight Months prescribed by this Preliminary, I shall think it something very Extraordinary ; and if at last all the Disputes now subsisting between *Spain* and us are adjusted to our Satisfaction, I shall then think that we may justly apply to one Person in this Kingdom, what was said of the great *Fabius* at *Rome*, *Cunctando restituit Rem*.

I know, my Lords, it would have been more glorious, and would have look'd more like great Courage and Magnanimity, to have attack'd the *Spaniards* directly, without so much as asking, whether they were willing to give us Satisfaction : If we had done so, the *Spaniards* could not with justice have complained of us, nor could they have said, we treated them otherwise than they deserved ; but I cannot

Ann. 12 Geo. II.
1738-9.

think it would have been prudent, nor do I think it would have been acting like Men that had a due Regard to the Prosperity and Happiness of their Country. Wars and Victories, my Lords, make a fine Figure in History, or even in a News-Paper: We still read with Pleasure the Roman-tic Accounts of our Wars and Battles in *France*, when our Kings were wasting the Substance, and spilling the Blood of their Subjects, in quest of that which would have ruined their Country, if they had met with the wished-for Success; we likewise read with Pleasure, an Account of our late Campaigns in *Flanders*, *Germany* and *Spain*, when we were running ourselves several Millions in Debt yearly, for the sake of conquering Kingdoms and Provinces for those, who have not since shewed themselves very grateful for the Favours we then so bountifully bestowed; and if we had now run ourselves headlong into a War with *Spain*, we should probably, if they had been assisted by none of their Neighbours, have had the same Success we have formerly met with in our Wars against that Nation: The taking of some of their *Galleons* or *Flota*, the Plundering some of their Towns upon the Sea-Coast in *Europe*, or the taking or plundering some of their Settlements in *America*, would have furnished our *Gazettes* with excellent Paragraphs for the Entertainment of the present Age, and our Histories with fit Matter for the Amusement of future Generations; but, upon balancing Accounts, we should have found, I believe, that the Profit would not answer the Charge; and that we had done better to have accepted at first of a reasonable Satisfaction in a peaceable Manner. In the mean Time, our Trade would have been interrupted, our People oppress'd with Taxes, many of our Merchants ruined by Captures, and Multitudes of Tradesmen drawn away from useful Labour and Industry; for it was well observed by a celebrated Clergyman, who was appointed to preach at *St. Paul's* upon the Peace of *Utrecht*, That those Times which are the best to read of, are far from being the best to live in.

' It was, therefore, I think, my Lords, the wisest Course, to try first what could be done by Negotiation; and as there is nothing in this Preliminary that is either scandalous, or inconsistent with any of the Rights or Privileges of this Nation; as we have got all that could be expected in so short a Time; and as the Time stipulated for concluding a definitive Treaty is but very short, I must think, it was right to accept, in the mean Time, of this Preliminary. If the Court of *Spain* should refuse, or unreasonably delay giving us entire Satisfaction by a definitive Treaty, within the Time limited by this Preliminary, we must go to War; we shall then

then be able to excuse or justify ourselves in our own Minds, let the Event of that War be what it will ; because of two Evils, the least is certainly to be chosen. Our Trade cannot suffer much in the mean Time, the Circumstances of Affairs in *Europe* cannot become more unfavourable than they now are, nor can it be supposed that we shall be weaker, or *Spain* stronger, eight Months hence, than at present. For these Reasons, my Lords, I think we cannot well refuse to give our Approbation of this Preliminary, in those general Terms the noble Lord has proposed ; and therefore I shall be for agreeing to the Motion he has been pleased to make.'

At last the Question was put, and carried in the Affir- Division upon
mative, upon a Division of Lords in the House 71 Contents, the Question.
to 58 Not-contents ; and of Proxies 24 Contents, to 16 Not-
contents. Whereupon the following Address was agreed to,
and presented accordingly, viz.'

Most gracious Sovereign,

'WE your Majesty's most dutiful and loyal Subjects, the Lords Address,
Lords Spiritual and Temporal in Parliament assem- and his Majesty's
b'ed, beg leave to return your Majesty our most humble Answer.
thanks for your gracious Condescension, in laying the Con-
vention between your Majesty and the King of *Spain*, dated
the 14th Day of *January* last, N. S. together with the se-
parate Articles, before this House.

'We think it our indispensable Duty, on this Occasion, to express our just Sense of your Royal Care of the true Interests of your People ; and to acknowledge your Majesty's great Prudence, in bringing the Demands of your Subjects for their past Losses, which have been so long depending, to a final Adjustment by the said Convention ; and procuring an express Stipulation for a speedy Payment ; and in laying a Foundation for accomplishing the great and desirable Ends of obtaining future Security, and preserving the Peace between the two Nations.

'We beg leave also to declare to your Majesty, our Confidence and Reliance on your Royal Wisdom, and steady Attention to the Honour of your Crown, and the Welfare of these Kingdoms ; that in the Treaty to be concluded in pursuance of this Convention, proper Provisions will be made for Redress of the Grievances so justly complained of ; and particularly, that the Freedom of Navigation and Commerce in the *American* Seas, to which your Majesty's Subjects are entitled by the Law of Nations, and by virtue of the Treaties subsisting between the two Crowns, will be so effectually secured

Ann. 12 Geo. II. secured, that they may enjoy, unmolested, their undoubted
 1738-9. Right of navigating, and carrying on Trade and Commerce from one Part of your Majesty's Dominions to any other Part thereof, without being liable to be stopp'd, visited, or searched, on the open Seas, or to any other Violation or Infraction of the said Treaties; the mutual Observance thereof, and a just Regard to the Privileges belonging to each other, being the only Means of maintaining a good Correspondence, and lasting Friendship between the two Nations.

' Permit us at the same Time, in the most dutiful Manner, to express to your Majesty, our firm Dependence, that in the Treaty, to be concluded in pursuance of the said Convention, the utmost Regard will be had to the Rights belonging to your Majesty's Crown and Subjects, in adjusting and settling the Limits of your Majesty's Dominions in *America*; and to give your Majesty the strongest Assurances, that, in case your Majesty's just Expectations shall not be answered, this House will heartily and zealously concur in all such Measures, as shall be necessary to vindicate your Majesty's Honour, and to preserve to your Subjects the full Enjoyment of all those Rights, to which they are entitled by Treaty, and the Law of Nations.

To which his Majesty returned the following most gracious Answer, *viz.*

' My Lords, I thank you for this dutiful Address, and for the grateful Sense you express of my Care of the true Interests of my People. You may depend upon it, that I have the Honour of my Crown, and the Welfare of my Kingdoms entirely at Heart; and that nothing shall be wanting on my part, to secure to my Subjects the full Enjoyment of their Navigation and Commerce, and their other just Rights.'

The Speakers for and against the Address were as follows, *viz.*

For the Address.

Against the Address.

Speakers for and
 against the Ad-
 dress.

- | | |
|--|-------------------------------------|
| 1 The Earl of <i>Cholmondeley</i> ,
who moved for it. | 2 The Lord <i>Talbot</i> . |
| 3 The Duke of <i>Newcastle</i> . | 4 The Lord <i>Cartaret</i> . |
| 5 The Bishop of <i>Salisbury</i> . | 6 The Duke of <i>Bedford</i> . |
| 8 The Lord High-Chancellor. | 7 The Duke of <i>Argyle</i> . |
| 10 The Lord <i>Hervey</i> . | 9 The Earl of <i>Chesterfield</i> . |
| 12 The Earl of <i>Isle</i> . | 11 The Lord <i>Bathurst</i> . |

And

And the following is a List of the Lords who voted upon this Occasion, viz.

For the Address
In the House.

Against the Address
In the House.

The Lord High-Chancellor. His Royal Highness the Prince of Wales. Voters for and against it.

The Dukes of

The Dukes of

Ancaster,
St. Albans,
Aibol,
Buccleugh,
Devonshire,
Dorset,
Grafton,
Kent,
Kingslon,
Manchester,
Marlborough,
Montagu,
Newcastle,
Portland,
Richmond.

Argyle,
Beaufort,
Bedford,
Bridgwater,
Leeds,
Rutland.

The Earls of

The Marquis of Lothian.

The Earls of

Albemarle,
Cholmondeley,
Cowper,
Dartmouth,
Durmore,
Effingham,
Essex,
Finlater,
Fitzwalter,
Godolphin,
Halifax,
Harborough,
Hyndford,
Jersey,
Illa,
Loudon,

Bristol,
Burlington,
Chesterfield,
Coventry,
Gainborough,
Graham,
Huntington,
Ker,
Litchfield,
Macclesfield,
Northampton,
Oxford.
Peterborough,
Rockingham,
Scarborough,
Shaftsbury,
Stanhope,
Strafford,
Suffolk,
Thanet,
Westmoreland,
Winchelsea and Nottingham.

The Viscounts.

Cobham,

For

Ann. 12 Geo. II.
1738-9.

For the Address.

Against the Address.

*Malton,
Pembroke,
Rochford,
Warwick,
Wilmington.*

*Falmouth,
Lonsdale,
Townshend.*

The Barons of

The Viscounts,

*Falconberg,
Harcourt,
Lymington,
Torrington.*

*Bathurst,
Boyle,
Bruce,
Carteret,
Clifton,
Clinton,
Craven,
Foley,
Gower,
Haversham,
King,
Majham,
Maynard,
Mountjoy,
North,
Raymond,
Rumney,
Talbot.*

The Barons of

*Abergavenny,
Cadogan,
Catbcart,
Cornwallis,
Delawar,
Ducie,
Harrington,
Hay,
Hervey,
Hobart,
Lovel,
Monson,
Onslow,
Pawlet,
Walpole.*

The Bishops of

*Gloucester,
Lincoln,
Litchfield,
Oxford.*

The Archbishop of Canter-
bury.

Proxies.

The Bishops of

The Duke of Somerset.

*St. Asaph,
Bangor,
Bristol,
Cheichester,
St. David's,
Durham,
Landaffe,
Norwich,
Rochester,*

The Earls of

*Berkshire,
Bute,
Carlisle,
Denbigh,
Derby,
Exeter,
Warrington.*

For

(185)

For the Address.

Against the Address.

Ann. 12 Geo. II,
1738-9.

Salisbury,
Wintbesley.

The Viscount St. John.

The Barons of

Proxies.

The Duke of Chandos.

The Earls of

Broadalbin.
Crawford,
Grantham,
Hopton,
Leicester,
Pomfret,
Portmore,
Powlett,
Radnor,
Selkirk,
Southerland,
Tankerville,
Walgrave,

Barnard,
Dudley and Ward,
Griffin,
Middleton,
St. John,
Eveston.

The Bishop of Carlisle.

The Viscount Say and Seal.

The Barons of

Hunsdon,
Percy,
Trevor.

The Archbishop of York.

The Bishops of

Bath and Wells.
Ely,
Exeter,
Hereford,
London.

Upon this Question's being approved of, the following Protest on this
Protest was entered in the Journals of that House, viz. Occasion.

1738-9.

A 2

Dig.

Ann. 12 Geo. II.
1738-9.

Dissentient

1. Because we conceive that this Resolution, under the plausible Pretence of a respectful Address to the Throne, carries with it an Approbation of the Convention concluded at the *Pardo* the 14th of *January* last, which, as we apprehend, may be a most fatal Compliment, if it should induce his Majesty to believe, that this Convention is agreeable to the Sense and Expectation of the Nation.

2. Because this Resolution hath rather weakened than enforced the Address of last Year, having omitted that Part of the said Address, which declares, that no Goods being carried from one Part of his Majesty's Dominions to another, are to be deemed contraband and prohibited Goods; and that the searching of Ships, under Pretence of their carrying contraband, or prohibited Goods, is a Violation and Infraction of the Treaties subsisting between the two Crowns.

3. We think the said Resolution doth not sufficiently assert our Right, by saying only, that we shall not be liable to be stopp'd, search'd, or visited upon the open Seas, the Merchants having proved, at the Bar of the House, that Currents and Winds unavoidably drive Ships out of their Course, and that Observations of Land-Marks, upon the *Spanish* Coast, are absolutely necessary for their steering a safe Course thro' those Seas, we apprehend, that their being obliged to keep a direct Course, without coming near the *Spanish* Coast, as lately insisted upon by the *Spaniards*, would render them sole Judges of our Navigation; and their being permitted to visit or search our Ships within any Limits whatsoever, would render our whole *American* Trade precarious and impracticable.

4. Because we see no Reason to believe, that the future Negotiation of the Plenipotentiaries will, in the next eight Months, obtain the Admission of those Rights insisted upon in our former Address, which the Instances and Representations made to the Court of *Spain* last Year, supported by the Resolution of Parliament, and a powerful Fleet, have not been able as yet to procure.

5. Because we apprehend, the *Spaniards* do not think themselves bound by this Convention to abstain from their unjust Methods of proceeding; since it was proved at the Bar of this House, that Capt. *Vaughan*, a Commander of a *British* Ship, having been unjustly taken by a *Spanish* Man of War, his Ship confiscated, and he imprisoned at *Cadix*, was, at the Time of signing the Convention, detained in Prison there, and not released in several Weeks after, notwithstanding the Representation of the *British* Plenipotentiary at the Court of *Spain*.

6. Because we conceive, that the Reparation pretended to be made to our Merchants, by this Convention, for the grievous Losses they have sustained during a Course of many Years, is insufficient; the dark Accounts of this Transaction, laid before us, have not been fully explained, nor any satisfactory Reasons given us why their Demands, stated in an Account signed *June* the 14th, 1738, by Mr. *Stert*, one of the Commissaries, at 343,277 *l.* should be so greatly reduced.

Ann, 12 Geo. II.
1738-9.

7. Because, as we apprehend, we are to allow 60,000 *l.* to the King of *Spain*, chiefly on account of the Ships taken near *Sicily* in the Year 1718; though it hath appeared to the House, from the Instructions given to the Commissaries after the Treaty of *Seville*, signed by his Majesty, now lying before us, that the Articles of the Treaty concluded at *Madrid* in 1721, upon which that Claim of the *Spaniards* is founded, had been fully executed on the Part of the Crown of *Great-Britain*.

8. Because the referring the Limits of *Florida* and *Caroline* to the Plenipotentiaries, seems to call in question our Right to Possessions, which we have so long uninterruptedly enjoyed, seven Eighth-Parts, or Shares, of which, the Nation, at a considerable Expence, hath, not long since, purchased of the Proprietors under the two original Grants of King *Charles II.* a certain District whereof, called *Georgia*, in Honour to his present Majesty, hath been erected into a new Colony, and granted to Trustees for landable Purposes; for the Establishment and Improvement of which, considerable Sums have been granted by the Public: And moreover, it being stipulated by the present Convention, that no Fortification there shall be encreased, during the Term of eight Months, we apprehend, that the Regiment lately raised for the Defence of that Colony, and also the Engineers and Stores, which, at a considerable Increase of the public Expence, have been sent thither, will not only remain useless, but, if a Peace should not be procured within that Period, will, at the End of it, be exposed, together with the Colonies, to the Violence and Irruption of the *Spaniards*.

9. Because we apprehend the *British* Minister's Acceptance of the Declaration signed by *M. de la Quadra*, *January* 10, 1738-9, said to be agreed with reciprocal Accord, hath allowed his Catholic Majesty to reserve to himself, in its full Force, the Right of being able to suspend the Assiento of Negroes, in case the *South-Sea-Company* doth not subject herself to pay, within a short Time, the Sum of 68,000 *l.* pretended to be owing on the Duties of Negroes, and Profits of the Ship *Carolina*, though that Sum was never other-

Ann. 12 Geo. II. wife acknowledged to be due, than as Part of a Plan of Accommodation, wherein a much larger Sum was admitted to be due to the said Company, whereby we apprehend the King of *Spain* may think that great Company is put out of the Protection of his Majesty, as to this Point, and left to his own Mercy and Equity; whereas, if the Convention, as it now stands, had been signed without the Acceptance of the Declaration, the King of *Spain* would have had no Pretence, as we conceive, to suspend the Assiento; and therefore we apprehend, that the said Declaration will be looked upon as a Defeazance of the said Treaty, as far as it relates to the *South-Sea-Company*, which appears to us a dishonourable Collusion, hurtful to public Credit.

10. Because we do not find any Satisfaction has been obtained by the Convention, for the frequent Cruelties and Barbarities exercised on the *British* Sailors, nor for the many Insults offered to the *British* Flag; which we are apprehensive may be thought an Insensibility of the Sufferings of a Body of Men, highly useful to the Trade, and necessary to the Defence of these Kingdoms, and a great Neglect of the Honour of the Nation.

<i>Grabam,</i>	<i>Thane,</i>	<i>Clinton,</i>
<i>Huntington,</i>	<i>Bruce,</i>	<i>Foley,</i>
<i>Burlington,</i>	<i>Gainsborough,</i>	<i>Haversham,</i>
<i>Chesterfield,</i>	<i>Beaufort,</i>	<i>Shaftsbury,</i>
<i>Montjoy,</i>	<i>Cobham,</i>	<i>Litchfield,</i>
<i>Macclesfield,</i>	<i>Abington,</i>	<i>Gower,</i>
<i>Stanhope,</i>	<i>Masham,</i>	<i>Suffolk,</i>
<i>Northampton,</i>	<i>Strafford,</i>	<i>Maynard,</i>
<i>Clifton,</i>	<i>Westmoreland,</i>	<i>Coventry,</i>
<i>B. Lincoln,</i>	<i>Ker,</i>	<i>Boyle,</i>
<i>Bristol,</i>	<i>Aylesford,</i>	<i>Carteret,</i>
<i>Raymond,</i>	<i>Greenwich,</i>	<i>Talbot,</i>
<i>Winchelsea,</i>	<i>Oxford,</i>	<i>Bathurst.</i>

Message for a Settlement on his Majesty's younger Children, and Descendants thereon.

Towards the latter End of *April*, the Lord *Delaware* delivered a * Message from his Majesty, informing the House, That his Majesty had been pleased to settle 39,000 *l.* *per Ann.* upon the younger Children of the Royal Family, in the following Proportions, *viz.* 15,000 *l.* *per Ann.* to the Duke of *Cumberland*, and 6000 *l.* upon each of the four Princesses, who were unmarried, which Settlement was to take Place at his Death; hoping that their Lordships would order in a Bill, enabling his Majesty to make that Provision good out of the hereditary Revenues of the Crown. Upon which,

* See *Candler's Hist. Ann. 12 Geo. II. 1739. p. 81. &c.*

(189)

which, the Bill being ready, it was read a first and second Ann. 12 Geo. II.
Time; and the next Day, upon its being read a third Time, 1739.
a Debate ensued. The Substance of which is as follows.

Lord Delawar.

‘ My Lords, I believe it would be quite unnecessary in Lord Delawar.
me, to take up your Lordships Time, in demonstrating the
Fitness and Necessity, that his Majesty should be empowered
to make a suitable Settlement upon the younger Children of
his Family. Nature, my Lords, dictates to his royal Breast,
that they ought to be provided for; and it is both our Duty
and Interest that, in the worst of Events, (which God forbid)
all the Branches of the Royal House should be above Depen-
dence. Every Nation in *Europe* is proud of seeing the
younger Children of their Royal Family make a Figure in
the World. The Provision which his Majesty has been
pleased to make, is but very moderate. Twenty-four
Thousand Pound *per Ann.* can never be thought too much
to the four Princesses; and 15,000 *l. per Ann.* is less than I
believe any second Son of the Royal Family ever had before.
The younger Brother of *Charles* the 2d, had 100,000 settled
upon him: And the small Allowance to the Duke, men-
tioned in this Bill, is a Proof of his Majesty’s Moderation,
and that he has the Good of his Kingdom, and the Ease of
his Subjects, always first in his Thoughts. Therefore, my
Lords, I humbly move that this Bill be now read a third
Time.

Lord Carteret.

‘ My Lords, the worst Enemy I have in the World, I Lord Carteret.
am persuaded, will not question my Zeal for the Royal
Family. But I have several Objections to this Bill. In the
first Place, my Lords, I wish it had been brought in at a more
proper Time than this, when the Appearance of a War with
Spain calls upon us to be as saving of the Public Money as
possible. In the next Place, my Lords, as the Kings of *Great-
Britain*, are accountable to none but Heaven alone, I am
afraid, that if his Majesty should die, (which God forbid)
the next Heir may look upon this Settlement as a Mortgage
of his Revenue, which a Parliament has no Power to make,
and might refuse to pay it. My Lords, I don’t speak with-
out Authority, I speak according to the Principles of our
Constitution. Another Reason, my Lords, why I am against
this Bill, is the Manner in which it is now brought in, be-
cause we can’t pass it without dispensing with a positive Act
of

Ann. 12 Geo. II.
1739.

of Parliament made in the Reign of *William III.* and which Act binds every future King up from disposing of the hereditary Dominions of the Crown, longer than his own Lifetime. Besides, my Lords, formerly, no Daughter of the Royal Family ever was provided for by Parliament, except the eldest, and that never was by way of Annuity, but an express Provision of a determinate Sum of Money paid by way of Dowry. The Princess of *Orange*, indeed, had an annual Settlement granted her by Parliament, but that, my Lords, was an extraordinary Case. The House considered the present low Circumstances of that illustrious Family, which, perhaps without such an Assistance, could not provide a Maintainance suitable to the Dignity of the first Daughter of *Great Britain*.

‘Fifteen Thousand Pound, my Lords, is but a very moderate Provision, I own, for his Highness the Duke. It is perhaps too little, and I have no Objection to our granting it, provided it is done by way of independent Provision, and that his Highness shall enter on it, either at the Time of the Commencement of this Bill, or when he comes of Age.

‘But, my Lords, my great Objection to the Bill is, that in the Event it will be found to put 39,000 Pounds in the Pockets of the Minister. Consider, my Lords, that when the present vast Civil List was granted, it was granted with a View, that the Prince of *Wales* was to have at least 100,000 Pounds *per Ann.* out of it. The House considered likewise, that his Majesty had a large Family, that he had a Queen alive, and they made it about 100,000 Pounds more on that account. Now, my Lords, it is well known, that the Prince of *Wales* does not enjoy above 50,000 Pounds *per Ann.* out of the Civil List. Here are 50,000 Pounds *per Ann.* saved to the Government. By the Death of the Queen, at least 50,000 Pounds more are saved, which makes 100,000 Pounds a Year. Now, my Lords, if this 100,000 Pounds were laid up for independant Provisions to the Daughters of the Royal Family, there would be soon no need for this Application: or if the Public were eased of so much of its annual Burden, I should not oppose this Bill. But, my Lords, it’s plain there is to be no saving to the Public, for the Civil List still continues the same, and it appears from this Bill, that the Money thus saved is not intended for that Use.

‘For these Reasons, my Lords, I think we ought, at least, not to be in such a Hurry in carrying through this Bill. Therefore, I am for putting off its being read a third Time at present.

Duke

Duke of Newcastle.

‘ My Lords, I think it hard that his Majesty should be put in worse Condition than any private Gentleman in *Great Britain*, who thinks it his Duty, if he has Children, to provide for them. The noble Lord’s Reason, drawn from what was the former Practice in Parliaments, has no Weight with me at all: For when Provisions for the younger Children of the Royal Family were made before the Restoration, the Royal Revenues were quite upon a different Footing from what they are at present. These Kings then enjoyed a considerable Estate in Land, out of which they could provide for all their younger Children without consulting their Parliament.

‘ Since the Restoration, my Lords, I think this is the first Instance of a King of *Great Britain* requiring any Provision to be made for the younger Children of their Family. *Charles II.* had none to provide for. Those of *James* were married before he came to the Throne. *William III.* had none. *Queen Anne* had but one Son, who died before her Accession. And the Daughter of King *George I.* was married before he was King. Therefore, my Lords, we have no Precedent that answers this Case. The noble Lord says, that if we pass this Bill, we must dispense with an Act of Parliament. My Lords, that is the very Reason why we should pass it, because tho’ the Thing is absolutely proper in itself, yet it cannot be done unless we pass this Bill.

‘ As to his Lordship’s Objection to increasing the Civil List, I think it has nothing to do with the present Question. If the Purposes for which the Civil List is granted, are answered, we have no Right to ask an Account in what Manner the Money is applied, or thro’ whose Hands it passes. If his Majesty has a larger Civil List than his Predecessors, he has likewise more to do with it, and there is not a Child in the Royal Family, who is not supported as liberally as the Civil List can afford.

‘ I had almost forgot another Objection of the noble Lord’s; his Lordship seemed to doubt if this Act of Parliament could bind a succeeding King. My Lords, I never heard such a Doubt proposed before in this House. I hope never to hear such another proposed, and of all Mankind I am surprized, how the noble Lord, who understands our Constitution so very well, should start such a Difficulty. For my Part, my Lords, I never before heard it questioned, that an Act of Parliament was not binding upon every King, who shall succeed to this Throne. Therefore, my Lords, I hope the Motion will be agreed to.

Lord

Ann. 12 Geo. II.
1739.

Lord Talbot,

Lord Talbot.

‘ My Lords, I am sorry, that I am obliged to give a Negative to a Motion that carries with it an Appearance of Zeal for the Royal Family. But, my Lords, the vast Increase of the Civil List is a Circumstance which we ought most to dread at present, and to guard against hereafter. I confess, my Lords, there may, on several Occasions, be very good Reasons for augmenting that Revenue ; but do we ever find, when those Reasons cease, that the Augmentation ceases ? It has been observed, my Lords, when a King comes to the Crown, the Ministers, to ingratiate themselves in his Favour, endeavour to outvie each other in engaging for a large Civil List ; and he that bids highest, as at an Auction, generally carries his Point. Now, my Lords, in such Case, this very Bill, should it pass, would be given as one Reason to the Parliament for granting 50 or 60,000 Pounds, because it had been granted before ; which is just so much Money levied on the People for the Purposes of the Minister, without any Necessity or Reason then subsisting, whatever there might be at first.

On which Account, and because I believe the Royal Family may be provided for otherwise, I do not chuse to give my Consent hastily to the present Motion.’

Lord Chesterfield.

Lord Chesterfield.

‘ My Lords, my Zeal for the Royal Family has, I hope, never been questioned : However, I can truly declare, it is a Zeal quite disinterested ; it is both unexpected and undesiring. I hope therefore, my Lords, that what I shall offer with regard to this Question, will not be thought to proceed from any Motive but the Interest of my Country.

‘ My Lords, Burthens unnecessarily born disable the Nation to bear necessary ones. I look upon this Bill as saddling the Public with a Burthen, which I allow it is not at present charg’d with, but which must be hereafter entail’d on the Nation. For if we consider the Nature of Mankind, the new King is always better than his Predecessor ; and it will be unreasonable to deprive so good a King as the next or the next after him, who is to succeed, of any Part of what his Predecessors enjoyed, tho’ perhaps not one of the Reasons, for which it was granted, exist. But, my Lords, I am of the noble Lord’s Opinion who spoke first against the Motion, that this Bill might possibly not be regarded by a succeeding King, since it is the same Thing as mortgaging an Estate without

without Consent of the Heir of Entail, who, as soon as he comes to Age, may dispute the Legality of the Mortgage. This is all that the noble Lord, I dare say, meant in what he threw out on that Head. And if a future King, my Lords, should take it in his Head to dispute the Authority of this Bill, I should be glad to know what Redress the other Parties could hope for, or where they could apply for Relief.

Ann. 12 Geo. II.
1739.

‘But, my Lords, let us consider that while we are thus providing for certain Branches of the Royal Family, who certainly merit more than we can bestow, there are other Branches of it nearer to the Throne, who are not only unprovided for, but *unprayed* for; it would have been decent, at least, that some Care should have been taken of them.

‘As for the Provision to be made for the Duke of Cumberland, I have no Objection to it, but that it is too mean, and that he can’t enjoy it as an independent Provision, either upon the Commencement of the Bill, or when his Highness comes of Age. His Highness, my Lords, will, in a very few Years, have a Right to sit and vote in this House; and is it fit that the Third Person in the Kingdom should have only a precarious Dependence, that every Lord in this House would, I am sure, disdain? His Majesty, were he in his Highness’s Place, would disdain such a Dependence; and every Nation abroad must be apt to have a very mean Opinion of the Wisdom of this Kingdom, if we should suffer the Son of our King to be the only Person in this House who must depend on the Pleasure of a Minister for his daily Subsistence.

‘As to the Increase which the Civil List, in a future, perhaps in the present Reign, may acquire by this Bill, I think, my Lords, it is a Consideration of the highest Importance to this House; especially, if what is commonly said, be true, (I tremble to speak it) that the present monitrous Civil List is in Debt. My Lords, I don’t pretend to the Gift of Prophecy, but I do foresee that the fatal Blow to the Constitution of this Kingdom will come from the Exorbitancy of the Civil List: I foresee, that if proper Measures are not taken to prevent it, it will become pregnant with secret Mischief, till, like the *Trojan* Horse, it will be so unwieldy, that, in order to admit it, the Wall of this Constitution must be one Day broken down.’

Lord Chancellor.

‘My Lords, I did not imagine that there would have been the least Debate upon this Motion. It is so very reasonable that his Majesty should have it in his Power to provide for

Ann. 12 Geo. II.
1739.

his own Family, that if your Lordships would bring his Majesty's Case home to yourselves, I dare say there will not be the least Difference of Opinion. I think the Reasonableness of granting a Provision to the Princesses, has, in Effect, been admitted by the Lords who spoke against this Motion. The only Difficulty that remains, is with Regard to the Dependency of the Provision of his Royal Highness the Duke, and to the Increase which this may make to the Civil List. As to the first Objection, my Lords, I believe there are none of your Lordships, who are Parents yourselves, who would not wish to have your Children dependent of you ; the Independence of Children, my Lords, is a great Temptation for them to neglect their natural Duty to their Parents. I believe his Highness the Duke has all the Sentiments of a dutiful Son, and, for that Reason, my Lords, he never will take it amiss, that, during his Majesty's Life-time, he is dependent on him. Nor, my Lord, is it in a Minister's Power to make their Subsistence precarious, after it is settled by Act of Parliament.

' As to the Increase that this may bring to the Civil List, I cannot see the least Reason for such a Suggestion. Future Parliaments are always Judges how large or how small a Civil List ought to be ; and, if the Public Exigency should require it, there is not the least Doubt, but that the Parliament would reduce the Civil List in Proportion as the Causes for the granting it shall cease.'

Lord Hervey.

Lord Hervey.

' My Lords, since I had the Honour to sit in this House, I never heard such Arguments advanced upon any Subject as have been advanced on this. The noble Lord who spoke first, said, that he did not think that a King of *Great Britain* was to be bound by an Act of Parliament. This, my Lords, was a Maxim fitter for a *Turkish* Divan, than for a *British* Parliament. I hope never to live, my Lords, to that Time, when an Act of Parliament shall not bind the King, as well as any private Man in his Kingdom ; and if the Parliament shall confirm this Settlement by an Act, his Royal Highness and the Princesses have just as good a Right to it, as any King has to his Crown.

' The noble Lord said, that we must dispense with an Act of Parliament in order to pass this Bill. My Lords, that is no new Thing ; for that very Act was dispensed with in the first Year of Queen *Anne*, when a Provision, on the same Foot with the present, was made by the Parliament in favour of Prince *George of Denmark*. Another noble Lord spoke
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of other Branches of the Royal Family not being either provided or pray'd for. My Lords, that is too delicate Ground to tread upon, and it is not quite decent to bring such a Case into this Debate.

Ann. 12 Geo. II.
1739.

But, my Lords, give me leave to observe, that there is one Thing that ought to have great Weight with your Lordships on this Occasion, and that is, the precarious Footing which the Subsistence any younger Child of the Royal Family must be on, in case of a Regency. I hope, my Lords, his Majesty, and the Prince of *Wales*, will long sit upon the Throne; but, my Lords, if these two Lives were at an End, which God forbid, our Laws are quite silent with regard to the Right of being Regent during a Minority. This, my Lords, is, perhaps, the greatest Blemish in our Constitution. And therefore, as it is impossible to foresee Events, your Lordships will act but prudently in putting the Subsistence of those, for whom we ought all to have so great a Regard, above the Reach of any Person whatsoever.

Lord *Bathurst* then said, ' That there was a Standing Rule in the House, that every Bill should be committed; and therefore moved, that the Bill should be committed. The Lord *Delaware* answered, that it was very common for Bills to pass without being at all committed; and that if the Forms of the House were to be dispensed with, it ought to be, on that Occasion.'

The Question being put on the Commitment, it was carried in the Negative. Yeas 78. Noes 27.

Division on the Question.

May 10. The Duke of *Newcastle* laid before the House the Subsidy-Treaty betwixt his Majesty and the King of *Denmark*; by which the former was to pay to the latter 70,000 *l* per Annum, and the latter was to furnish to his Majesty a Body of Troops of 6000 Men, to be ready at his Majesty's Call, who was to pay 50 Crowns, by way of Levy-Money, for each Foot-Soldier, and 80 for every Horseman. At the same time his Grace delivered a Message, signifying, that his Majesty hop'd the House would enable him to make good his said Engagements with the King of *Denmark*, and also enable him to raise what Money and Troops the Exigency of Affairs, during the approaching Recess, might require.

Treaty of Subsidy with *Denmark* laid before the House.

After which his Grace expressed himself to the following Effect.

Debate thereon.

Ann. 12 Geo. II.
1739.

Duke of New-
castle.

‘ My Lords, as his Majesty’s most gracious Message to this House consists of two Parts, one of which relates to the Treaty lately concluded with the King of *Denmark*, which he has been so good as to order to lay before us, and the other to the Augmentation of his Forces, and the other Measures that may, in this critical Juncture, become necessary; I shall beg Leave to consider them distinctly, and in order, as they stand in the Message. As to the Treaty with *Denmark*, I believe, the Expediency, and even the Necessity of concluding such a Treaty, upon the present Occasion, will be acknowledged by every Lord that considers the remarkable Turn of Affairs, which has lately happened in *Sweden*, and the precarious State the Tranquility of this Nation now stands in. It is a Misfortune attending a free Government in every Country, to have their People divided into Factions or Parties; and this Misfortune *Sweden* of course relapsed into, as soon as they had recovered and established their Liberties, upon the Demise of their late Sovereign. That Kingdom is now divided into two Parties, one of which is for preserving the Peace with all its Neighbours, particularly *Muscovy*, and strictly observing those Treaties that have been concluded since the Accession of their present King; whereas the other, which is the most turbulent, and of course the most popular, is for taking the first Opportunity for endeavouring to recover those Provinces which were dismembered from that Kingdom, by the Misfortunes of the late Reign, notwithstanding their having been yielded to the Potentates now in Possession of them, in the most solemn Manner, and by the most express and explicit Treaties of Peace.

‘ Of these two Parties, my Lords, the first has always been for cultivating a good Correspondence with this Nation; because they may depend upon being supported by us, in case their Country should be unjustly attacked by any ambitious Neighbour; They have nothing but just and peaceable Views; and in these, they stand in no need of any Alliance but that of this Kingdom. But the Views of the other Party, my Lords, are very different: Their Views are unjust, and in the Prosecution of such, they can expect no Encouragement or Assistance from this Nation. They can expect Assistance from no Power in *Europe* but *France*; and this makes them ready to second the Views of that Kingdom, and to enter into any Alliance that may be proposed to them by the Court of *France*. This Party, by their Intrigues among the Members of the last Diet, and by the Hopes they gave the People of recovering their lost Provinces, which however improbable, will always be popular, Have

have got themselves established in the Administration of public Affairs ; and, as soon as they had effected this, they immediately concluded an Alliance with *France*, and began to make Preparations both by Sea and Land, as if they had some grand Project in View.

Ann. 12 Geo. II.

1739.

What the Design of these Preparations may be, or what Design the *French* may have in giving so large a Subsidy to *Sweden*, and in offering so considerable a Subsidy to *Denmark*, are Secrets which the World is not as yet let into ; but, considering the precarious Footing upon which the Peace between *Spain* and us stands at present, and considering the Uncertainty of the Measures *France* may take, in case of a War between this Nation and *Spain*, it would have been very imprudent in us, to have allowed *France* to engage both the northern Crowns in an Alliance, in which there would probably have been some secret Articles, which might have been of great Prejudice to this Nation. I have already shewn, why it was impossible for us to prevent the now governing Party in *Sweden*, from entering into the Alliance proposed to them by *France* ; therefore, the only Thing we could do, was to prevent the Accession of *Denmark* to that Alliance ; and there was no other Method for doing this, but by concluding, with *Denmark*, such a Treaty as his Majesty has now ordered to be laid before you. For this Reason, I am convinced, there is no Lord in this House, that will not readily approve of this Treaty, and most cheerfully concur in enabling his Majesty to make good the Engagements he has thereby entered into.

My Lords, the Advantages that must accrue to this Nation from the Treaty now before us, appear upon the Face of the Treaty itself ; but, when I tell your Lordships, that no Alliance was ever more earnestly solicited, than the Alliance of *Denmark* was by *France*, upon this Occasion, these Advantages will appear to be more considerable, and the Necessity we were under of concluding this Treaty will become manifest. The Subsidy we are to pay to the Crown of *Denmark*, is, 'tis true, a little extraordinary ; but when we consider, that a much larger Subsidy was offered by *France*, we must conclude, that nothing more evidently points out to us the Wisdom of the King of *Denmark*, and his good Inclinations towards this Nation, than his rejecting, upon this Occasion, the Offers of *France*, and accepting from us a much smaller Subsidy than was offered to him by that Kingdom. I shall grant, it was more for the Interest of *Denmark* to join in an Alliance with this Kingdom, than to join in an Alliance with *France* ; but when the Interest of a Court happens to be opposite to that of the Country,

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Ann. 24. Geo. II.
1739.

it requires some Address in those that apply to them, it requires Wisdom in the Court applied to, for prevailing upon them to prefer the latter. This was the Case in our late Negotiations with *Denmark*: It was the Interest of that Court to accept of the larger Subsidy offered by *France*; it was the Interest of the Country to accept of the lesser Subsidy offered by *Great Britain*. This, we may suppose, was set in its true Light, by those who were employed by his Majesty in that Negotiation; and his *Danish* Majesty's natural good Sense prevailed with him, as it ought, and, I hope, always will, to prefer a future Interest to a present Advantage, and to sacrifice his own immediate Interest to the Happiness of his Country, and the Security of his Posterity.

I hope your Lordships will excuse my having said so much upon the first Part of the Message now under your Consideration, which is, indeed, of such a Nature, that I cannot suggest to myself any Objection that can be made against our complying with it; and as to the other Part of the Message, it appears, in my Way of Thinking, as reasonable as the former. I have often heard those plausible Arguments, that are commonly made use of against Votes of Credit and Confidence. Perhaps they may be repeated upon this Occasion; and, I shall allow, that such Votes ought not to be passed, but in Cases of an extraordinary Nature. I shall grant, it would be dangerous to intrude the Custom of concluding every Session of Parliament with a Vote of Credit and Confidence, to the King then upon the Throne; but this is what was never contended for; and whatever may be done upon any extraordinary Emergency, can be no Precedent for doing the like, when no such Emergency exists. Upon such Occasions, therefore, we are to consider the Situation of our Affairs at that Instant of Time; in order, from thence, to determine, whether such a Vote be then necessary or no. If we do this, I believe, every Lord that hears me must agree, that a Vote of Credit and Confidence was never more necessary than it is at this present Conjunction. We have, 'tis true, a Convention with *Spain*; but that Convention is only a Sort of Preliminary: The principal Articles in Dispute between *Spain* and us, remain yet to be adjusted; and even those Articles, which by this Convention were finally settled, remain still uncompleted with. The best Way of securing a Compliance, is to be in a Condition to compel it; and the only Method by which we can expect to have the other Articles adjusted to our own Liking, is to shew that we are ready to vindicate our Rights by Force of Arms, in case the *Spaniards* should continue obstinate

finite in refusing to acknowledge them by peaceable *Ans. 15 Geo. II.*
Means.

The Session, my Lords, is now drawing towards a Conclusion. The Parliament will probably be prorogued; the Season of the Year is now so far advanced, that it will even become necessary for his Majesty to prorogue it, before he can know what may be the Result of the present Councils of *Spain*; and, if we should separate, without enabling his Majesty to put the Nation into a warlike Posture, as soon as the Exigency of our Affairs may require, it will encourage the Court of *Spain*, not only to refuse giving us Satisfaction with regard to those Disputes that remain as yet to be adjusted, but also to refuse performing those Stipulations which they have expressly promised by that Convention, which has been ratified by both Crowns. Thus, by neglecting to furnish his Majesty with those Powers that are necessary for enabling him to engage in a War, we shall render a War unavoidable: By a groundless Apprehension of running ourselves into a Danger of a domestic Nature, we shall run ourselves into a real foreign Danger; and by refusing to empower his Majesty to put the Nation to a small Expence, which, by his being empowered to do so, may become unnecessary, and which we are sure his Majesty will not put us to unless it be necessary, we may subject the Nation to an immense Charge, which in its present Circumstances, I am sorry to say, it is not well able to bear.

From these Considerations, my Lords, I must be of Opinion, that there is as much Reason for our complying with the second Part of this Message, as with the first; and as I can apprehend no Danger from our complying with both, I shall take the Liberty to move your Lordships to resolve, That an humble Address be presented to his Majesty, to thank him for laying before this House, the Treaty lately concluded with the King of *Denmark*; and to assure his Majesty, that this House will not only concur in enabling him to make good the Engagements he has entered into by that Treaty; but also in enabling and supporting him to make such further Augmentation of his Forces, either by Sea or Land, as may become absolutely necessary; and in concerting such Measures, as the Exigency of Affairs may require.

Lord Carteret.

My Lords, the noble Duke has very properly divided his Majesty's Message into two Parts. It consists, indeed, of two Parts, and they are of so different a Nature, and so distinct from

Ann. 7s Geo. II.
1739.

from one another, that I am surprized at his Majesty's having been advised to join them together in one and the same Message. They are so distinct, that it is impossible to speak to them both together; and therefore I must consider them separately, as the noble Duke has done before me.

With regard to the first Part, my Lords, which relates to the Treaty lately concluded with *Denmark*, if the Message had been confined to that Treaty alone, I am persuaded no Objection would have been made, by any Lord in this House, to our complying with what his Majesty desires; and, as I have often taken the Liberty to find fault with our late Measures, I am glad to have this Opportunity of giving my Approbation to something that has been done by those now at the Head of our Administration. In our present Circumstances, my Lords, and considering the present unlucky Posture of Affairs in *Europe*, to which we have, by our late Measures, not a little contributed, the concluding of this Treaty was absolutely necessary for us, in order to prevent *Denmark's* entering into any Engagements that might be of dangerous Consequence to the Interest of this Nation in particular, and the Tranquillity of *Europe* in general. Therefore, however expensive this Treaty may be to us, yet, in the main, I must think it was a wise, a right, and a necessary Measure. But, at the same time, I cannot help observing, what can escape the Observation of no Man, who compares this Treaty with those that have been concluded upon former Occasions between the two Crowns, That a Nation, like a private Man, the lower it sinks in its Credit, the dearer it must pay for every Favour it is obliged to sue for.

This Observation occurs the more readily to me, my Lords, because I was once concerned in negotiating a Treaty of the same Kind with the Crown of *Denmark*. When I had the Honour to be employed by his late Majesty in his Negotiations with the Northern Crowns, a Treaty was concluded between him and the King of *Denmark*, of the same Nature with this now before us: But by that Treaty, we paid but 70 Crowns for each Horse-man his *Danish* Majesty was to keep in Readiness for our Service; whereas, by this Treaty, we are to pay 80 Crowns for every such Horse-man; which Difference, though it may appear inconsiderable when considered with respect to each single Man, yet upon 1000 Horse-men, the Number stipulated by this Treaty, it amounts to a very large Sum; and it is the more considerable, because, by the Treaty, we are obliged to pay immediately one Moiety of this 80 Crowns for each Horse-man, and 30
Crowns

Crowns for each Foot-Soldier, whether we have Occasion for these Troops or no. In this Light, the Difference of 10 Crowns upon each Horse-man, will appear to be of some Consequence, especially, if we consider the present unfortunate Circumstances of this Nation, and the great Charge we must be at, if a War should ensue between us and *Spain*, which I have, indeed, long thought inevitable, and I have now more Reason to think so than ever I had before.

Ann. 22 Geo. II.
1739.

Besides this Disadvantage, my Lords, there are several others, which every Lord may see, by comparing the two Treaties; but what is still worse, this Treaty can be of no Advantage to us, except that of preventing *Denmark's* engaging against us, unless we can engage in our Interest several other Powers upon the Continent, besides *Denmark*. We can, by this Treaty, make no use of the *Danish* Troops, in any Expedition we may think fit to undertake against *Spain*; because it is expressly provided, by the sixth Article of this Treaty, That this Corps of *Danish* Troops shall not be made use of either in *Italy*, or upon the Fleet, nor is it to be transported, in Whole or in Part, beyond Sea, after it is come out of the Territories of *Denmark*, except for the Defence of the Kingdoms of *Great Britain* and *Ireland*. Nay, if *France* should join with *Spain* against us, we could make no use of this Body of *Danish* Troops, either against *Spain* or *France*, unless we should have Occasion to form an Army in *Germany* or *Flanders* against *France*; and this we neither can, nor shall have the least Occasion for, unless we can form a Confederacy amongst the Princes and States, who have Dominions in that Part of the World; which we have, as yet, I believe, no great Hopes of being able to accomplish.

This Treaty with *Denmark*, my Lords, is but a preparatory Step towards accomplishing so great and necessary a Design. Several other Steps must be made, and particularly, there is another Power upon the Continent, whom I may likewise call a Northern Power, whose Alliance we ought to seek, upon the present Occasion, as much as that of *Denmark*. When I say so, I believe, every Lord that hears me will suppose; I mean the King of *Prussia*. He is a powerful Prince: He is a Protestant Prince, my Lords; and one of the chief Supports of the Protestant Cause in *Germany*. It is hardly possible, that ever any natural Difference can arise between this Nation and that Crown; therefore we ought always to cultivate a good Correspondence with him: We ought even to promote his Interest, and support his Pretensions, as far as may be consistent with our own Safety. While we do this, we may depend upon a grateful Return: because it will always be his Interest to be grateful, which,

Ann. 12 Geo. II.
1739.

amongst Princes, is the only Gratitude that can, with Assurance be depended on. By our Religion, we are embarked upon the same Bottom with the King of *Prussia*; and as there can be no Jarring of Interests between the two Crowns, we ought to support one another in all just Pretensions, we ought to assist one another against every unjust Attack. Therefore, I wish the second Part of this Message had been to acquaint us of a new Alliance concluded with the King of *Prussia*, and to desire, that his Majesty might be enabled to perform the Engagements thereby entered into; which, I am sure, would have been a second Part more agreeable to the first, than that which now stands second in this Message.

The Danger of *Sweden's* disturbing the Tranquility of the North, by attacking *Muscovy*, was not our only Motive for concluding this Treaty with *Denmark*. If it had, I am sure, it would have been ridiculous in us to put our selves to such an Expence. We might have trusted to *Muscovy* for defending itself; and *Denmark* was not only by Treaty, but in Interest, obliged to assist *Muscovy*, in case it had been attack'd by *Sweden*; therefore, it would have been ridiculous in us to engage *Denmark* by a large Subsidy, to do what was necessary for their own Safety. But this, my Lords, was far from being our only Motive: It was our own Safety that made it necessary for us to conclude this Treaty: It was to prevent the Fleets of *Denmark* and *Sweden* from being joined with that of *France*. Such a Conjunction we had, we have still great Reason to guard against on our own Account, and without Regard to the Tranquility of the North; because, in case of a War between us and *Spain*, we do not know what Part *France* may take in the War: We are pretty certain, believe, it will take no Part with us; and, if the *French* should join with the *Spaniards* against us, it would be of the most dangerous Consequence, to have the Navy of *France* increased and supported by the Ships and Seamen of *Denmark* as well as *Sweden*.

This, my Lords, is what makes me in general approve of the Treaty now laid before us. If our Credit had been better, we might probably have obtained it upon more reasonable Terms, and at a less Expence; for though *France* offered perhaps a larger Subsidy, yet the Terms were far from being so advantageous for the King or Country of *Denmark*; it was not possible they should be so; because, in Consideration of the Subsidy offered by the Court of *France*, that Court would certainly have insisted upon a Number of Seamen and Ships of War from *Denmark*, as soon as they might have Occasion for them. They stood in no Need of any of the

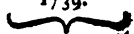
the Land-Forces of *Denmark*; they stood in great Need of their Seamen and Ships of War; therefore, they would certainly have stipulated for a Number of the latter, as a Return for the Subsidy they were to pay. This, the King of *Denmark* could not furnish, or keep in readiness, without putting himself to a very extraordinary and a new Expence. Whereas, we desired only a Number of Land-Forces, which the King of *Denmark* can furnish, without putting himself to any new Expence, because he keeps in constant Pay so great a Number of Regular Troops, that he can furnish us with the 6000 stipulated by this Treaty, without adding one Man to the Number he has now in his Pay.

With Regard therefore to the Court of *Denmark*, it was their Interest to accept of the lesser Subsidy from us, rather than the larger Subsidy from *France*; and, with regard to the Country, I am sure it was more for the Interest of the People of *Denmark* to send away 6000 of their Regular Troops, than to send away 6000 of their Seamen. The latter they could not spare without distressing their Trade; but, as to their Regular Troops, it is for the Interest of the People of *Denmark*, it is the Interest of every Country where such Troops are kept up, to have them quartered any where, rather than at Home. To this, I must add, my Lords, that the Terms offered, and the Engagements desired by *France*, could not be but inconsistent with those Treaties which are now subsisting between *Muscovy* and *Denmark*; and, I believe, every Man in *Denmark* saw, that no Subsidy that was, or could be offered by *France*, would be equal to the Prejudice the Crown and Country of *Denmark* might sustain, by the Forfeiture of its Alliance with the *Russian* Empire.

But, my Lords, the Forfeiture of the Friendship and Confidence of the Court of *Russia*, was not the only Prejudice the Crown and Kingdom of *Denmark* would have suffered, by engaging in an Alliance with *France* upon this Occasion. Such an Alliance would have been a Breach of that ancient Friendship, which has so long subsisted between *Denmark* and this Kingdom; and this might have been in many Respects of fatal Consequence to *Denmark*. Their chief Nursery for Seamen depends upon their Trade with this Kingdom: It depends upon their being allowed to import into this Kingdom, their Timber and all Sorts of Naval Stores, in their own Shipping, which is an Advantage we may take from them, whenever we have a Mind; and, if we should take this Advantage from them, their Alliance would soon come to be despised by *France*; because it could be of little or no Service to that Kingdom. Nay, without a considerable

Ann. 72 Geo. III.

1739.



Ann. 72 Geo. II. Number of Seamen, and a large Squadron of Men of War, they would not be able to keep a Communication, and a mutual Dependence between the several Parts of their own Dominions: Their King would then be obliged to depend upon *France*, for the Preservation of his Crown; and the certain Consequence of this would be, an absolute Subjection to the King of *France*; which is a Danger they have no Reason to apprehend from the King of *Great Britain*; because, by the Nature of our Government, our King must consult the Happiness of his People, more than his own Ambition: and it is inconsistent with our Happiness to attempt to make Conquests upon any Part of the Continent of *Europe*.

Thus it must appear, my Lords; that tho' this Treaty with the *Danes*, be a Measure which in our present Circumstances I highly approve, yet, in our having brought about such a Treaty, we have no great Cause to boast of our Wisdom in Politics, or our Skill in Negotiation: It was what common Sense dictated to us, and the Circumstances of the two Nations rendered extremely convenient, if not absolutely necessary for them. I wish we had allowed ourselves to be as much governed by common Sense in all our former Treaties and Negotiations: If we had never deviated from the Dictates of common Sense, in order, I believe, to amaze the World with the Profoundness of our Politics, neither the Circumstances of this Nation, nor the Circumstances of *Europe*, would have been in the untoward Posture in which they are at present.

But now, my Lords, with regard to the second Part of this Message; I am, indeed, not a little surprized, how it came to be tacked to the first. As all Messages are, in this House, supposed to be Messages from the Minister, I may say, without giving any just Offence, that the two Parts of this Message seem to have been designedly tacked together, in order to make the first Part serve as an alluring Vehicle, for enticing us to swallow down the bitter Pill contained in the second. A general and unlimited Vote of Credit and Confidence, is a Thing of a most dangerous Nature. Such a Demand, our Ancestors would have been amazed at, and would certainly have rejected with Scorn. The Practice is but of a modern Date in this Kingdom. It was never heard of before the Revolution; and never became frequent, till this Nation was blessed with our present wise Administration. Since that happy Period began, I shall grant, that such Messages have been frequent, and always punctually complied with, notwithstanding our having been in a continual Course of Peace, tho' I cannot say, Tranquillity; during the whole Time. What the Reasons were for making such
such

such Demands, or what the Reasons were for complying so punctually with them, I shall not now enquire; but, I must think, that such Demands, and such Compliances, are rather an Omen of our bad Conduct in Time to come, than a Demonstration of our good Conduct in Time past.

Ann. 12 Geo. II.

1739.

Whatever we may think, my Lords, here at home, I have good Reason to believe, that the Frequency of such Demands, and the ready Compliance they have all met with, renders our Constitution the common Jest of every Man abroad. Our Pretences to Liberty will, I fear, in a short Time, become as much the Ridicule of Foreigners, as our late Conduct has already rendered our Pretences to the Holding of the Balance of Power in *Europe*. I was confirmed in this Opinion by a Question lately put to me by a *French* Nobleman: He was a Man of good Sense, and yet, he one Day seriously asked me, what Difference there was between the Parliament of *England*, and the Parliaments they have in *France*. I readily answered, and I hope I had some Ground for saying, That in *France*, the King makes their Laws or Edicts, and their Parliaments must comply with whatever the King desires; but in *England*, our Laws are made by King and Parliament, and our Parliaments may refuse to comply with what the King desires. To which, he as readily replied, In your late History, we read of several extraordinary Messages or Demands sent by your King to his Parliament, no one of which was ever refused; and pray, where is the Difference between an Edict made by the King, and an Edict made by King and Parliament, if the Parliament never refuses what the King is pleased to demand; for, our Parliaments claim the Privilege of refusing as well as yours; and, if a Trial were to be made, such a Refusal might, perhaps, be found as insignificant in *England*, as it now appears to be in *France*.

This, I am apt to believe, my Lords, is the Way of Thinking in other Countries, as well as *France*; and, if a general Vote of Credit and Confidence should once become a sort of customary Compliment from the Parliament to the Crown, at the End of every Session, or as often as our Ministers may think fit to desire it, this may become the Way of Thinking at home as well as abroad. If this should ever come to be the Case, our Parliaments will of course become despicable in the Eyes of most of our own People; and, when the Form of an Act of Parliament begins to be contemned, a Proclamation may easily and safely be substituted in its stead. It would, indeed, be happy for the Nation, if it were so; for when a Parliament ceases to be a Check upon Ministers, it becomes an useless and unnecessary Burden upon the People. The Representatives of the People in Parli-
ment,

Ann. 12 Geo. II.

1739.

ment, must always be paid, some way or other, by the People: If their Wages are not paid openly and fairly by their respective Constituents, as they were formerly, a Majority of them may, in future Times, be always ready to accept of Wages from the Administration, which must, at last, come out of the Pockets of the People, and will fall with a much greater Weight upon them, at the same Time that it renders their Representatives of no Use to them. There is no Way of preventing this, but by putting it out of the Power of Ministers to pay Wages, either to the Electors or Elected; and this can be no way done, but by strictly confining public Grants to public Services, according to the Estimates previously delivered in to Parliament.

‘ But suppose, my Lords, our Constitution could be no way endangered by a Compliance with this extraordinary Demand, I do not think it is in our Power to comply with every Article of it. To enable his Majesty to augment his Forces by Land, is what, I think, we cannot do, by a Vote of this House. We have already, by the Mutiny-Bill, limited the Number of Land Forces, for the Service of this ensuing Year, to 17,704 Men. By that Bill, which is already passed into a Law, we say that the whole Number of Men for Guards and Garrisons in *Great Britain*, to be kept up for the ensuing Year, shall be 17,704 Men; and shall we pretend, by a Vote of this House, to enable his Majesty to keep up a greater Number? Would not this be repealing an Act of Parliament by a Vote of this House? Will any Lord pretend to say we have such a Power? By the Mutiny Bill, my Lords, a certain limited Number of Men are divested of the Privileges they enjoy as *British* Subjects, and made liable to martial Law: Can we add to this Number by a Vote? Can we, by such a Method, divest any one single Man in the Kingdom of any Privilege he enjoys as a Subject of *Great Britain*? Such a Pretence, my Lords, may be of the most dangerous Consequence: If we once begin to assume such a Power, I shall expect, in a little Time, to hear it insisted on, that the *Habeas Corpus* Act, or *Magna Charta* itself, may be suspended by a Vote of this House; and as such a Vote may be obtained by Surprise, and the Parliament immediately dissolved or prorogued, we may judge what a precarious State the Liberties of this Nation would be in, should the least Pretence be given for introducing such a Maxim.

‘ Therefore, my Lords, however fond we may be of complying with the first Part of this Message, I think it is evident, that we neither can nor ought to comply with the second. Let us but consider the Circumstances we are in with regard

regard to *Spain*, and we must think it a little odd, that such a Message should have been sent to us at such a Time. In less than a Fortnight we shall be able to determine positively, whether we are to have Peace or War. If we are to have Peace, there was no Occasion for sending such a Message, there can be no Necessity for our complying with it: unless we have a Mind to make a Breach in our Constitution, out of mere Compliment to the Minister: And if we are to have War, we ought to provide for the Prosecution of that War, in a regular and Parliamentary Method. The 24th of this Month, is the last Day *Spain* has for paying the 95,000 *l.* stipulated by the late Convention. If they fail of Performance, we must go to War: It would be dishonourable to the last Degree, to sue for a Performance of that Article, by any other Means than the Mouth of our Cannon. But, if they pay that Sum of Money, on or before that Day, tho' it be but a small Recompence for the Damages we have sustained, yet I shall think it a certain Omen of Peace, because I shall look upon it as a Testimony of their having a real Inclination to do us Justice. For this Reason, I think, the only proper Method we can take upon this Occasion, is to resume the House *, and adjourn the Consideration of his Majesty's most gracious Message, to the 25th of this Month; for, if it should then appear, that we must go to War, I am sure, no Lord in this House can be more zealous than I shall be, for enabling his Majesty to prosecute the War, in the most vigorous and effectual Manner.

Ann. 12 Geo. II.

1739.

The Lord Chancellor.

* As most of the Arguments that have been urged against our complying with this Message, have been chiefly directed against that part of it, by which his Majesty hopes to be enabled and supported by his Parliament, in making such further Augmentation of his Forces, either by Sea or Land, as may become absolutely necessary, and in concerting such Measures, as the Exigency of Affairs may require; I shall confine what I have to say upon the Subject, to that Part of the Message; for I cannot think the noble Lord who proposed resuming the House, was serious when he made that Proposition. I cannot think, he really intended we should defer a Moment giving his Majesty the utmost Satisfaction, as to that Part of the Message which relates to the Treaty with *Denmark*. The noble Lord himself gave one of the best Reasons that can be thought of, for an immediate Compliance with that Part of the Message. He told us, that in

The Lord Chancellor.

our

* The House was then resolved into a Committee,

Ann, 12 Geo. II.
1739.

our present Circumstances, it was necessary for us to bring several other Powers, besides that of *Denmark*, into an Alliance with us. Whether this be so or not, I shall not pretend to determine; but if it is, I am sure, we ought not to delay, one Moment, our coming to a Resolution to approve of this Treaty with *Denmark*, and to declare that we will enable his Majesty to make good the Engagements he has thereby entered into. What a Damp would it throw upon his Majesty's Negotiations, for concluding Treaties of Alliance with the other Powers of *Europe*, if they should hear, that the Parliament had delayed approving of the very first Treaty of that kind, which his Majesty has thought fit to make upon the present Occasion. This would of course put a Stop to all his Majesty's Negotiations at foreign Courts, and at some of them, it might be the Occasion of an absolute Disappointment; because it might, it probably would, make some of them immediately resolve to accept of the Terms offered by our Enemies, who are now endeavouring to out-bid us at every Court in *Europe*. *

Therefore, my Lords, I hope we shall immediately agree to what the noble Duke has been pleased to propose, with regard to the first part of this Message, whatever we may do as to that which regards the second. But, even as to the second, I cannot think there is the least weight in any of the Objections that have been made against our complying with it. Our Constitution can be no way endangered by the Parliament's giving the Crown their Authority, to do what it may do without any such Authority. By the very Nature of our Constitution, the Crown has, during the recess of Parliament, a sort of dictatorial Power to take care *ne quid Detrimenti Republica capiat*; and, in consequence of this Power, his Majesty may augment his Forces, both by Sea and Land, if it should become absolutely necessary, and he may concert such Measures as any sudden Exigency may require, without a previous Authority from Parliament for that Purpose. When it can be foreseen, that such a Necessity may probably happen, or that such an Exigency may probably arise, the Authority of Parliament ought to be previously ask'd; and, when that Probability appears to be in any high Degree, either from the Circumstances of Affairs at the Time, or from what his Majesty then communicates, the Parliament ought to grant the Authority demanded. Such a Message from the Crown, or the Parliament's complying with that Message, is so far from being inconsistent with, that it is highly agreeable to our Constitution; because, the sending of such a Message, is a Token of that Regard which the Crown ought always to have for the Authority of Parliament, and a Compliance with

with it, is a Testimony of that Concern which the Parliament Ann. 12 Geo. II.
ought always to have for the public Safety. 1739.

I am not at all surpris'd, my Lords, that no such Message was ever heard of before the Revolution. Before that happy Settlement of our Constitution, most of our Kings shew'd as little Regard to our Parliaments as they possibly could. They never ask'd either the Advice or Authority of Parliament, but when it was absolutely necessary for them to do so. Nay, they were so fond of Prerogative, and of acting by that alone, that they attempted too many Things by virtue of Prerogative, which ought not to have been done without the Authority of Parliament. But as King William never made use of the Prerogative of the Crown, but in Cases in which only it ought to have been made use of, that is, when the public Safety made it necessary, he applied by Message for the Authority of Parliament, as often as he had Occasion: Queen Anne did the same: His late Majesty could not fail of following so good an Example; and if such Messages have been more frequent in this Reign than in any former, it must have proceeded from the many Changes that have lately happen'd in the Affairs of Europe, and the extraordinary Regard his present Majesty has for the Privileges and Authority of Parliament. It could proceed from no sinister Design; because no bad Use has been made of the ready Compliance, his Majesty has met with from his Parliament upon every such Occasion. It cannot be so much as insinuated, that, in consequence of these Compliances, his Majesty has put the Nation to any unnecessary Expence, or that the Expences the Nation has been put to, in consequence of the Confidence repos'd from Time to Time in his Majesty, have not been regularly and strictly accounted for; and therefore, during his present Majesty's Reign at least, I should think, that our past Experience ought to be sufficient for removing all future Jealousy.

But suppose, my Lords, that our former Kings had all endeavour'd as much to shew a Regard for the Authority of Parliament, as some of them did endeavour to shew a Contempt of it, yet, before the Revolution, there was no Occasion for any such Message, because the Custom of appropriating the public Grants to their respective Services did not at all then take Place. Before that Time, the public Grants were made without any Appropriation; so that the King, or his Servants by his Authority, could apply the Money to such Services as they thought most pressing; and, if any sudden Emergency happen'd, which required an extraordinary and immediate Expence, the Services that were not so pressing, were put off, or left unsupplied, till the Parliament

should meet, in order to make a new Provision for them, and the Money designed for them was applied to those unforeseen Exigencies which demanded an immediate Supply. Whereas, since the Custom prevailed, of appropriating all Parliamentary Grants to their respective Services, no Minister can, even by his Majesty's Authority, apply to one Service, however urgent, what has been appropriated by Parliament to another; and therefore, when there is a Probability, that some Services may accidentally arise, during the Recess of Parliament, that could not be foreseen, or that could not be regularly provided for by Parliament, it becomes necessary to furnish his Majesty with such a Credit and Confidence, as is demanded by the second Part of the Message, now under our Consideration.

As this Credit and Confidence, my Lords, can last no longer than till next Session of Parliament, and as every following Session of Parliament must necessarily begin, within seven or eight Months after the Expiration of the preceding, it is impossible to suppose, that any such Vote of Credit and Confidence can ever be of dangerous Consequence to our Constitution; because, in so short a Time, it will always be impossible to raise and discipline such a Number of Forces, or to levy such Sums of Money, as would be necessary for overturning the Liberties of this Nation; especially, if we consider, that, by Virtue of such a Vote of Credit and Confidence, his Majesty can impose no Taxes, nor force any Loans, nor can any Man thereby be compelled to list in his Majesty's Land Service. If the Administration should attempt to levy Forces, or borrow Money, without any apparent Necessity, the People would immediately become jealous of their having Designs against the Liberties of their Country; and, in that Case, no Man would lend Money to the Government, or list in the Government's Service; even the Officers of the Army themselves, would be apt to declare against such new Levies, and if they did not refuse to obey, they would certainly be very negligent in fulfilling the Orders issued for that Purpose; which would of course render the Designs of the Administration abortive, and next Session of Parliament would certainly punish them for the Attempt.

Thus it must appear, my Lords, that our Constitution can be brought into no Danger, by our complying with what is proposed; and as to our having a Power to comply with every Thing demanded by this Message, I wonder to hear it made the least Doubt of. We have not, my Lords, by the Mutiny Bill, confined or limited the Number of Troops to be kept up for the ensuing Year. We had no Occasion to do so; because, the keeping up of any Number of Troops,

Troops, within this Kingdom in Time of Peace, without Consent of Parliament, is, by the Nature of our Constitution illegal, and is expressly declared to be so, not only by the Claim of Right, but by the Preamble to that very Bill itself. For this Reason, a certain Number of Troops is mentioned in the Preamble to that Bill, in order that we may give our Consent to the keeping up of that Number; but none of the enacting Clauses relate to that Number, or any other Number. They relate to all the Troops that shall be kept up; and if, by any future Vote, we give our Consent to the keeping up of a greater Number than is mentioned in the Preamble of that Bill, the enacting Clauses relate to, and comprehend the additional Number, as well as the Number mentioned in the Preamble. Therefore, the Resolution we may come to upon this Occasion, can no way be understood as a Repeal, or as an Alteration of the Mutiny-Bill: It can be considered only as a Signification of the Consent of Parliament, to the keeping up of a greater Number of Troops than were thought necessary when the Mutiny-Bill was passed; and surely the Consent of Parliament may be signified by a Vote or Resolution, in Pursuance of a Message from his Majesty, as well as by the Preamble to a Bill.

Ann. 12. Geo. II.

1739.

‘ We do not, my L^{ds}, by the Resolution now proposed, subject any Man in the Kingdom to martial Law, nor do we divest any Man in the Kingdom of the Privileges he enjoys, or ought to enjoy, as a Subject of *Great Britain*. It is already done to our Hands, by the Mutiny-Bill, which is now passed into a Law. By that Bill, every Man that shall voluntarily list himself in his Majesty’s Land Service, without any Restriction as to the Number of Men so to be listed, is made liable to martial Law; and, by the Resolution now proposed, we only give our Consent to his Majesty’s taking a greater Number into that Service, than we consented to by the Preamble of that Bill. There is nothing thereof in what is now proposed, that can furnish the least Pretence for laying it down as a Maxim, that the *Habeas Corpus* Act, or any other Act, can be suspended by a Vote of both, or either House of Parliament.

‘ From what I have said, my Lords, I hope it will appear, that there is no Weight in any of the Objections made to our complying with this Message. But, in my Opinion, our refusing, or even delaying to comply, may, in the present ticklish Conjunction of Affairs, be attended with the most fatal Consequences. *Spain* has already long depended upon gaining some Advantage from our intestine Divisions. It is to this only, we can with Justice impute the Obstinacy

Ann. 12 Geo. II.
1739.

they have shewn in refusing to do us Justice. They have, at last, promised to make us some Satisfaction for past Injuries; and the Term allowed them for performing that Promise, is now near expired; but, if the 95,000 *l.* which they are to pay to us on that Account, were now in *London*, and ready to be paid, I do not know but our delaying to give his Majesty the Satisfaction of complying with his most gracious Message, would prevent that Sum's being paid within the Term limited. The Agents for *Spain* would immediately begin to expect a Breach between his Majesty and his Parliament, which would of course encourage them to delay making that stipulated Payment, till they had new Instructions from *Spain*; and thus, by delaying to agree with his Majesty's Message, we should render a War unavoidable, at the same Time that we rendered it impossible for his Majesty to provide for it, either by Alliances abroad, or Armaments at home. For these Reasons, I shall most heartily join with the noble Duke in the Motion he has made, and I hope we shall have the Concurrence of a Majority of this House.

Duke of *Argyle*.

Duke of *Argyle*.

' My Lords, it is no new Thing to see the Demands and the Projects of Ministers ushered into this House under the Name of our Sovereign: When any extraordinary Demand is to be made, or when any dangerous Powers are to be asked for by our Ministers, it has always been their Custom to screen themselves under the sacred Name of Majesty; and when such Demands are opposed by those who have a true Regard for their Sovereign, but no very great Regard, perhaps, for his Ministers, the Advocates for those Demands, are sure to follow the Example that has been set them, by introducing his Majesty's Name into every Part of the Debate. Our Ministers ask a Power to put the Nation to what Expence they please, and as an Argument for our complying with this Demand, we are told, his Majesty never put the Nation to any unnecessary Expence: Our Ministers ask such Powers as will of course, if they are frequently granted, render Parliaments of no Use to the People, whatever they may be to an Administration; and to induce us to render ourselves useless, we are told, that this modest Demand proceeds from the great Regard his Majesty has for the Authority of Parliament.

' Th's, my Lords, is a Way of arguing, that must lay your Lordships under great Difficulties, and is, I am sure, no Sign of any true Regard for the King, whose Name ought never to be introduced into any Debate; therefore I wish that

that all such Messages were sent hither in the Name of those that advise them, whom I shall always look on as the Persons that really send them. It is upon me, particularly, a great Hardship, to see any Thing sent hither in his Majesty's Name, which I do not approve of; for, as the King is not only my Sovereign, but my Master, it is with the utmost Reluctance I can say any Thing against a Proposition that appears in his Name. But, my Lords, I know his Majesty so well, I am so well assured of the Regard he has for our Constitution, that I cannot look upon this anti-constitutional Message as coming from him. I must consider it as a Message from some of his Ministers, and I shall treat it accordingly.

Ann. 12 Geo. H.
1739.

'It is a Message, my Lords, of a most dangerous Nature; for if such Messages should be frequently sent, and frequently complied with, it will end in a total Overthrow of our Constitution. The Business of Parliament is to prevent its being possible to run the Nation into any needless Expence; for after a needless Expence is incurred, we may punish the Advisers, but there is no recalling the Expence. The guilty Head of a wicked or weak Minister is but a poor Atone-ment to the Nation; and his Fortune, however immense, may prove but a very insufficient Recompence for the Damage the Nation may suffer, and the Charge it may be put to, by one ridiculous or imprudent Measure. For this Reason the Parliament ought to examine and judge of the Services, before they think of granting Funds for supplying those Services; and it is for this Reason, that particular Estimates of the respective Services necessary for the ensuing Year, are always laid before Parliament. From those Estimates we can judge, not only of the Services intended, but also of the Sums necessary for supplying those Services; and, if we disapprove of the Services, we may, and ought, to refuse granting any Funds for their Supply; or, if we think the Sums demanded too large, we may, and ought to grant no more than what shall appear to be absolutely necessary for the Supply of those Services we approve of. But by granting such a Vote of Credit and Confidence as is demanded by this Message, we can neither judge of the Measures intended, nor of the Sums necessary for the Execution of those Measures; whereby we render ourselves quite useless, as to that of being able to prevent the Nation's being put to any unnecessary Expence: Therefore, if such a Vote as this now demanded, should once come to be an usual, methodical Conclusion to each Session of Parliament, I shall then begin to think Parliaments of no Use to, I shall think them a most unnecessary Burden upon the People.

Ann. 12 Geo. II.

1739.

‘ We are told, my Lords, that an Account shall be laid before next Session of Parliament, of all the extraordinary Expences the Nation may be put to, by Virtue of the Credit and Confidence now demanded. What signifies this to the Nation? Will this make good the Expence that may be unnecessarily incurred? Will this atone for the Damage the Nation may sustain by a rash or ridiculous Project? Such an After-account can, in my Opinion, never be of the least Signification. I shall never think, that a Parliament that will grant such a Credit and Confidence, will ever find Fault with any Expence the Nation may be put to in Pursuance of that Credit and Confidence, or that they will find Fault with any Article in the Account. In such a Parliament, I shall always expect to see panegyriccal Votes of Approbation passed in every following Session, with regard to those Measures that were undertaken, and those Expences that were incurred, in Pursuance of a Vote of unlimited Credit and Confidence passed in the preceding. And if a new Parliament should intervene, there is nothing can be of more Service to a Minister, for enabling him to get a House of Commons to his Mind, than his being appointed the sole and whole Executor of the expiring Parliament. Therefore, if a Check be not put to the sending of such Messages as this, now under our Consideration, I shall soon expect to see every Session of Parliament open with a general Approbation of all the Minister has done in Time past, and conclude with a general Power to do whatever he pleases in Time to come.

‘ My Lords, let us but examine the Arguments made use of upon this Occasion, and we shall find, that most of them may, with equal Weight, be made use of at the End of every Session. We are told, that, during the Recess of Parliament, his Majesty has a Sort of dictatorial Power, which would enable him to do all that is desired by this Message, and that therefore our Constitution can never be in any Danger, by our giving him an Authority to do what he might do without any such previous Authority. Is not this my Lords, an Argument that may be made use of with equal Weight at the End of every Session? Can we suppose a Time when it may be positively affirmed, that no sudden Emergency can arise during the Recess? We can now, or at least we may in a few Days, as certainly foresee what will happen during the Recess, as we can ever do at the End of any Session of Parliament. Therefore, the Timing of this Message deserves our particular Notice. It seems calculated for establishing it as a Custom, that at the End of every Session, our Parliament ought to invest our Ministers with an absolute Power, and an unlimited Credit. I shall grant, that

that in case of a very sudden and very imminent Danger, Ann 12. Geo. II.
the Crown has a Sort of dictatorial Power; but I will say, 1739.

that in such a Case, the Parliament ought to be assembled as soon as possible. I will say, that no good Man, no wise Minister, would advise the Crown to make use of that Power for one Week longer than Necessity required; so that the Exercise of it can never, by our Constitution, last for above five or six Weeks; whereas, by granting such a Parliamentary Authority as is now demanded, we give our Ministers an Authority, or at least a Pretence, for exercising that dictatorial Power for seven or eight Months. In the former Case, the Exercise of it can never be of any dangerous Consequence, because our People would not submit to it, if exercised without an apparent Necessity, or without summoning the Parliament to assemble as soon as possible; and in so short a Time no dangerous Use can be made of it. But when the Exercise of this Power is founded upon a previous Authority from Parliament, the People will submit to it without Enquiry; and, in so long a Time, such an Use may be made of it, as may render it perpetual; for our Ministers, in such a Case, would never allow the Parliament to assemble, unless they were sure of having such a Parliament as would begin the Session, by approving of the Use they had made of their Power, and conclude the Session with giving them a Renewal of their Term.

‘ If we are to have Peace, if there is the least Probability that *Spain* will comply, even with that nominal Satisfaction we have submitted to accept of, there can be no Reason for our complying with this Message, there could be no Reason for sending it, beside that I have mentioned. But, my Lords, I am far from thinking that we shall have Peace. I believe we must at last go to War. The *Spaniards* will do nothing, as long as they have such a contemptible Opinion of us. We must beat them into a better, I hope a righter Opinion of us, before we can expect they will give us either Satisfaction or Security. If this be the Case, why do not our Ministers tell us so? The King, I know, is for laying every Thing before us. The Ministers ought: It is their Interest to do so. It is the Interest, at least of the Majority of them, to lay every Thing fairly and openly before Parliament. We could then provide for War in a regular, Parliamentary Method. But this, we are told, would be divulging the Secrets of the Government: It would be declaring War against *Spain*, before we have provided for carrying it on. What! are we then to steal a War upon the *Spaniards*? Are we to steal a Satisfaction from that contemptible, tho’ insolent Nation?

‘ My

Ann. 72 Geo. II.

1739.

‘ My Lords, we have no Occasion to do so; and I am sure we ought not to make an Encroachment upon our Constitution for such a needless, such an insignificant Purpose. If the War be prosecuted in a proper and vigorous Manner, we now have, or may have, before they can prepare for their Defence, a sufficient Force both at Land and Sea; a Force that may fully enable us, not only to defend ourselves, but to revenge, in the most ample Manner, the Insults they have put upon the Nation, and the Depredations they have committed upon our Merchants. This, I say, we have a Power to do, but God knows what may be done, if our warlike Measures be conducted with the same sort of Spirit, that our peaceable Measures have been for so many Years past. I have, my Lords, lived a long while in the World: I have lived so long as to wonder at nothing.—I beg Pardon, there is still one Thing I should wonder at: I should wonder; if those who have brought us into such a deplorable and contemptible State, should ever be able to bring us out of it, or to recover either our Character or their own.

‘ For God Sake, my Lords, what are we afraid of? Are we afraid of *Spain*? That cannot be. Are we afraid lest *Spain* should be supported by *France*? What then? Must we do nothing but what *France* gives us Leave to do? Must we make a Sacrifice of our Trade, our Navigation, our Honour, because *France* commands it, and threatens us with Correction, if we do not obey. My Lords, we had better submit to become a Province to *France*, because they would then think themselves obliged to defend us. But this I shall never submit to, I shall chuse to die with my Sword in Hand, rather than meanly live to see my Country made a *French* Province; and if this should ever come to be the Question, hope I should still find in this Kingdom many Companions; I am sure every *true Briton* would share the same Fate with me. With such Men, to live or not to live, can never be the Question of most Importance. To live freely, or die bravely, has been the Resolution of our Ancestors in all Ages past; I hope it is the Resolution of the present Generation, I hope it will be the Resolution of our Posterity in all Ages to come.

‘ With regard to *Spain*, my Lords, if they do not give us immediate Satisfaction, we are under an absolute Necessity of declaring War, let who will take their Part. The principal Affair in Dispute between them and us, is of such a Nature, that even *France* will not, I believe, take their Part; and I believe it, because it is neither her Interest to do so, nor is she prepared for it. It is not the Interest of *France* to establish those Claims which the *Spaniards* have lately

lately set up against us ; because they may one Day be made use of against *France* as well as against us. And suppose the *French* should mistake their Interest, which they seldom do, what can they do against us ? They can make use of nothing but a naval Force against us, which they are at present unprovided with ; and in case of an open War, we may take Care they never shall. The *French* Court may encourage the Claims of *Spain*, whilst they are made to operate only against this Nation ; because every Thing that is a Discouragement to our Trade, is an Encouragement to that of *France*. They may even bully and hector, in order to make us submit as patient'y to the Claims of *Spain* for twenty Years to come, as we have done for twenty Years past ; because, by such a Submission, the Trade of this Kingdom would be very much lessened, and their Trade as much advanced ; but if we once begin to reassume our ancient Character, if we once resolve to vindicate the Rights of our Country, notwithstanding the unfortunate Situation the Affairs of *Europe* are by some late Measures reduced to, yet, I believe, *France* will be extremely cautious of engaging in a War, for supporting *Spain* in Claims which all the World must see to be unjust. Against this Nation, their numerous Land Armies signify nothing, without a superior naval Force, and that, they know, they neither have, nor could provide themselves with in Time of War. The certain Consequence of a War with this Nation, would be a full Stop to their Trade, and, if well conducted on our Part, it might be attended with the Ruin of most of their Settlements in the *East* and *West Indies* ; which is a Risk we can hardly suppose the *French* will run, for the Sake of supporting *Spain*, in Claims that may hereafter be made to operate against themselves. Besides this Danger, whatever our own Ministers may think, the *French* Ministers know, that this Nation has many natural and powerful Allies upon the Continent, and they likewise know, that vigorous Resolutions, vigorously and wisely executed, would reconcile to us those Allies whom our late Conduct has estranged from us. From all which, my Lords, I must be of Opinion, that the Danger of *France's* engaging in the War, is not near so hideous as the daftardly Imaginations of some People may represent. I am persuaded, they will not venture to engage, unless they foresee, that the same Spirit, which has rendered our peaceable Measures ineffectual, may probably have such an Influence, as to render most of our warlike Measures abortive.

But, my Lords, if we do go to War, I hope the natural Spirit of this Nation will revive, I hope it will begin to exert itself ; and if it does, I am sure it will get the bet-

Ann. 12 Geo. II.

1739



ter of every Thing that can, of every Man that dare oppose it. I must therefore think we have nothing to apprehend, for this Year at least, from *France*; and against *Spain* alone, we have no Occasion to make a Secret of our Designs. We have now a Fleet at Sea, superior to any they can fit out against us: We have a Number of Troops to put on Board, sufficient for attacking them in that Part, where alone we ought to attack them. What then should hinder us from declaring War, the Moment we find they despise us so much as to disregard every Engagement they make with us? Why should we make an Encroachment upon our Constitution for the sake of concealing that Resentment, which, the sooner it is manifested, the more it will tend to our Honour? In less than a Fortnight the Chance of Peace or War will be determined. If the Court of *Spain* does not, in that Time, comply with what they have so solemnly promised, it will be proper for his Majesty to come to his Parliament, and declare from the Throne, that we must provide for War. The sending of such a Message as this, at such a Time, seems therefore to have been calculated by our Ministers, for nothing else but to render the sending of such Messages familiar to the People, and the complying with them habitual to the Parliament.

Our not complying with the last Part of this Message, can be attended with no bad Consequence: We may comply with, and approve of the first, without taking Notice of the last: We ought to comply with the first, because it is reasonable, and because we may do so without any Breach of our Constitution. It is a certain, limited Demand, and such a Demand as ought to be provided for by Parliament. Therefore I shall readily agree to the Address of Thanks proposed, so far as it relates the first Part of this Message; but that Address ought, I think, to be accompanied with another of a very different Nature. However, as this is not the Question now before us, I shall wave saying any Thing upon it, till I see the Fate of the present Question.

Earl of *Chesterfield*.

Earl of *Chesterfield*.
p.d.

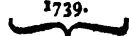
‘ My Lords, as the first Part of this Message bears no Resemblance nor Relation to the last, and as most Lords who have spoke upon the present Question seem to approve of it, so far as it relates to the first Part of the Message now before us, I shall give your Lordships no Trouble upon that Head. But as to what is demanded by the last Part of this Message, your Lordships may call it a Vote of Credit, or a Vote of
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Confidence, or both, if you will : Let the Demand be what it will, our comp'ying with it will, in my Opinion, be placing a much greater Confidence in, and giving a larger Credit to our present Ministers, than any Ministers ought, by our Constitution, to be trusted with. I shall never be for giving to any Ministers an unlimited Power to raise what Number of Troops, and what Sums of Money, they may think necessary ; and upon this Occasion I am the more against it, because of its being asked at such a critical Con-juncture. We may, perhaps, be under some Uncertainty at present : There may, perhaps, be at present a Probability, that we shall soon be obliged to declare War against *Spain* ; but in a few Days that Uncertainty will be at an End, and that which some are now pleased to call a Probability only, will, in my Opinion, within a Fortnight, become a Certainty ; for if the 95,000*l.* be paid on the 24th of this Month, we may look upon it as an Earnest of Peace, we may from thence conclude, that the *Spaniards* are at last resolved to do us Justice ; in which Case we can have no Occasion for raising more Troops, or larger Sums of Money, than have been already agreed to by Parliament, in a regular Parliamentary Method. On the other hand, if this Sum of Money be not paid upon the Day appointed, I hope we shall at last have done with Negotiation : I hope no Man will imagine, we are to purchase another ineffectual and col-lusive Convention, at a new Expence of 4 or 500,000*l.* This Session is, 'tis true, drawing towards a Conclusion ; but there is no Necessity for putting an End to it before the 24th of this Month : and if the Parliament be then sitting, and the Money not paid by *Spain*, what should hinder us from providing for War, in that Method which is most agreeable to our Constitution ?

This Message therefore, my Lords, seems to me, to be designed for nothing but that of establishing the Custom of concluding each Session of Parliament with a Vote of Credit and Confidence, without the least Necessity or Occasion ; and this I cannot agree to, because I think it will be of the most dangerous Consequence to our Constitution. During the Recess of Parliament, the Crown may have, by our Constitution, a Sort of dictatorial Power ; but that Power will become much more dangerous when founded upon the previous Authority of Parliament. Our People have a Sort of implicit Faith in their Parliaments, and will always be less jealous of the Exercise of any extraordinary Power, when it is founded upon the Authority of Parliament, than when it is founded upon an emergent

Ann. 12 Geo. II.

1739.



Ann. 12 Geo. II.
1739.

Necessity only. The dictatorial Power was upon many Occasions of great Service to the *Romans*, and whilst it was kept within its ancient Bounds, it was never attended with any Inconvenience or Danger. It was originally limited to the Term of *six Months* at farthest, and was generally resigned before that Term expired; but the second Man to whom it was granted for a longer Term, put an End to the Liberties of that Republic.

This shews, my Lords, how dangerous it is, in a free State, to depart in the least from any of those Regulations, that were established by our Ancestors, for limiting the Power of our Ministers, which is always what is really meant, when we talk of the Power or Prerogative of the Crown. Under those Regulations we have lived happy, we have lived free, for many Ages; but no one can tell what Consequences the least Departure may be attended with. It is allowed, that no Vote of Credit was ever granted before the Revolution, therefore every such Vote must be a Departure from our ancient Constitution, and consequently must be dangerous; and every one will allow, that we ought not in Prudence to expose ourselves to any Danger, without an apparent Necessity. If the Crown has, during the Recess of Parliament, a sort of dictatorial Power, may it not be now as freely exercised, as it was before the Revolution? May it not in Time to come be as sufficient for protecting us against sudden and unforeseen Dangers, as it has been for so many Ages past? We are told, that the Method of Appropriation, introduced since the Revolution, makes this impossible. My Lords, let us but consider the State our public Revenues were in before the Revolution, and we shall find there is nothing in this Argument. Before the Restoration, the Crown had no established Revenue, but what was scarcely sufficient for supporting what we now call the Civil List; and they had seldom any Credit to borrow Money from private Hands, even upon the most pressing Emergency. After the Restoration, indeed, we became a little more generous: A large, public Revenue was settled upon the Crown; but that Revenue was appropriated as much as it is now, tho' not in so express Terms. A Part of it was allotted for supporting the Civil List, another Part for paying the few Guards and Garrisons, that were then kept up, and a third Part for supporting the Navy. If any of these Services had been neglected, and the Money converted by our Ministers to other Uses, I believe the Parliament would have then been more ready to have inquired into, and punished such Misapplication, than they have ever appeared to be since that Time; and the Crown had, after the Restoration, as well as before, but very little

little Credit for borrowing Money from private Hands. During the Recess of Parliament, the Crown had no Resource against sudden Emergences, but that of making use of the little Credit it had for borrowing Money from private Hands, or that of leaving the Pensions and Salaries of Courtiers unpaid, and converting that Money to the Service of the Nation. This made it always necessary for the Crown to call a Parliament as soon as possible, and the Parliament replaced what had been laid out for the public Service, if they approved of it, or they put a Stop to the Expence, if they disapproved of the Service.

Ann. 12 Geo. II.
1739.

‘ Now, my Lords, let us consider our public Revenue, as it stands at present ; by which I mean, the whole Money raised yearly upon the People, by the annual or perpetual Grants of Parliament. It is now above three times as much as it ever was before the Revolution ; and every Shilling of it passes now thro’ the Fingers of our Ministers, as well as it did then. One Part of it is allotted for the Support of the Civil List, another Part of it for paying our Armies and Garrisons abroad and at home, a third Part of it for paying our Seamen, and supporting our Navy, a fourth for paying the Interest growing due yearly to our public Creditors, and a fifth for paying off yearly so much of the Principal, when we can keep our Ministers from laying hold of it for warlike Preparations in peaceable Times. These, my Lords, are the Uses it is designed for, and to these it is appropriated ; but in case of a sudden Emergency, during the Recess of Parliament, what should hinder our Ministers from leaving the Pensions and Salaries of Courtiers unpaid for a few Months, and applying that Money to the Service of the Nation ? I believe the Parliament would be as ready to supply the Deficiency thereby occasioned in the Civil List, as ever they were to supply any pretended Deficiency in that Revenue : I am sure they would have more Reason ; and no Man in the Kingdom could find fault with our Ministers, for advising the Crown to apply to the Safety of the Nation, in a Case of Necessity, that which was particularly appropriated to the Support of the Crown. But if this should not be sufficient, what should hinder our Ministers from contracting a small Debt for the immediate Safety of the Nation ? For that they may and do contract Debts without any previous Authority from Parliament, the great Navy-Debt lately paid off, the great Navy-Debt still remaining due, and the many Grants that have been made for making good Deficiencies in the Civil List, are sufficient Testimonies. Therefore, as the Pensions and Salaries paid out of the Civil List now amount to a much larger Sum than they ever amounted to before the Revolution,

Ann. 12 Geo. II. Revolution, and as the Crown has now much more Credit, both for contracting and running in Debt, than it ever had before that Time, I must conclude, that a Vote of Credit is now less necessary than it ever was, or could be, at any Time before the Revolution.

1739.

Thus, my Lords, it must appear, that such a Vote of Credit and Confidence, as is now desired, is not only dangerous, but unnecessary; and no Experience, no Precedent can warrant our running ourselves into an unnecessary Danger. We are not in this House, nor any where else, to say, that his Majesty has ever put the Nation to an unnecessary Expence: It is, in my Opinion, a Failure in the Respect due to our Sovereign, to bring his Name into any such Question. But we may make a little more free with his Ministers; and that they have, upon some Occasions, put the Nation to an unnecessary Expence, has been said in this House, and is now said in every Corner of the Kingdom; nor will it be said, I believe, by many Persons in the Kingdom, that they have regularly and strictly accounted for every Shilling of the many Millions that have passed through their Hands, for these twenty Years by-past. Therefore, if we judge from Experience, we can have no great Reason for giving them a Power to run the Nation as much in Debt as they please. Such a Power must always be of the most dangerous Nature; because the more they run the Nation in Debt, the more they may depend upon having that Power renewed, the more secure will they be against being called to a strict Account. Like the *Spanish* Governor, who, for his many Oppressions and Extortions, was recalled from his Command in *America*, their Security against Punishment will depend upon their having been guilty of every Crime that is laid to their Charge.

But suppose, my Lords, there were no Danger in our complying with every Part of this Message, and suppose there were a greater Necessity for it than there seems to be at present; yet, when I consider to whom we are to give the extraordinary Powers asked for, I cannot agree to it. I shall never agree to the Nation's giving an unlimited Credit to Ministers, who, with me, never had any Credit; nor can I give my Consent to the Nation's putting so much Confidence in a Ministry, in which I never could put any Confidence. My Lords, we have granted them such Powers as this before now: We have never refused them any Thing; and yet they have never so much as once deviated into what, I think, may be called right. But, on the contrary, they have, in my Opinion, prostituted the Honour, sunk the Reputation, squandered the Wealth, and almost ruined the Trade of this Nation.

Nation. To me, my Lords, they seem to have been playing, for almost these twenty Years, at a sort of Game of Hazard for Peace or War; and at last, by a lucky Nick, out started a Thing they call a *Convention*, which is neither one nor t'other; but is to be made either the one or the other, they cannot yet tell which, if we will but grant them some extraordinary and unusual Powers, for enabling them to continue their Game. What their future Success may be, I shall not now pretend to divine; but, I am sure, I shall never be for giving unlimited Credit to such awkward Gamblers.

As for that of empowering his Majesty to augment his Forces: In case of a War, my Lords, he has no Occasion for such a Power: He may augment his Forces both by Sea and Land, without any such Power; and if there is to be no War, I am sure, he ought not to augment them, and much less ought we to give our Consent. Nay, I do not think we can give our Consent in the Method proposed. The Consent of Parliament ought always to be understood to be by a Law regularly passed, and agreed to by the three several Branches of our Legislature. It is upon this the Security of our Constitution depends, because it prevents Surprise. Both Houses of Parliament may be surprized into a Vote of the most dangerous Nature, by our Ministers taking Advantage of an Opportunity when there are few Members in Town, but such as they order to attend. Precedents, my Lords, are of an improving Nature: If it should once be received as a Maxim, that the Parliament may, by a Vote, consent to an Augmentation of our Army in Time of Peace, that Maxim may at last be extended to the altering, repealing, or making any Law the Crown may, by a Message, please to desire; therefore, I cannot agree to what a noble Lord has been pleased to say in this Debate, 'That the Consent of Parliament may be signified by a Vote or Resolution, in pursuance of a Message from his Majesty, as well as by the Preamble of a Bill.' I am far from contending with that noble Lord in Law-Learning or Distinctions, but notwithstanding what he has said, I must look upon the present Motion, if it be agreed to, as a Repeal of the Mutiny-Bill. I must suppose, that by the Word, *While*, in the Preamble of that Bill, we did not mean a *Half*, or any Number of Parts: I must suppose, we thereby meant to limit the Number of Troops to 17704 Men; and as every Clause in a Bill must relate to the Preamble, therefore, when there is a general Limitation in the Preamble of a Bill, that Limitation, without being repeated, must run through the whole, and must be supposed to be a Limitation upon every Clause; for which

Ann. 12 Geo. II.
1739.

Ann. 12 Geo. II.
1739.

which Reason, I must be of Opinion, that no Clause in the Mutiny-Bill we have already passed, can relate to, or comprehend any Number of Troops above that which is mentioned in the Preamble. Nay, I do not know, but that the raising and keeping up a greater Number of Men, may render the whole Bill ineffectual, by making it impossible to determine who are within, or who are without the enacting Clauses of that Bill.

‘ In my Opinion, my Lords, it is a most dangerous Doctrine, to pretend, that when a Law is passed for keeping a certain limited Number of Troops in Order, it must relate to, and comprehend all the Troops which our Ministers may think fit to raise and keep up during the Continuance of that Law ; because, in such a Case, it may be made to serve for obliging our Army to subdue, instead of defending their Country : And if it does not comprehend all the Troops which our Ministers may think fit to raise and keep up, we must allow, that it cannot be made to do so by a Vote of either, or both Houses of Parliament, unless we allow, that an Act of Parliament can be altered or amended by a Vote ; and if it can be altered or amended, we must allow, that it may be repealed by the same Method. Thus, by agreeing to this Message, we must establish a most dangerous, and, I think, a false Doctrine, of the one Side or the other.

‘ It signifies nothing, my Lords, to say, that, by our complying with this Message, no Man is to be compelled to enter into his Majesty’s Land-Service : We know how ready young Gentlemen are to accept of Commissions in the Army, and a great Number of new Officers will always get a great Number of Men to list voluntarily into the Service. When Commissions are granted, and Orders for new Levies issued, we are not to suppose, that the Officers, when they accept their Commissions, will be told, that they are to be employed in subduing the Liberties of their Country ; nor are we to suppose, that the Men, when they are prevailed on to list, will be told, that they are to fight against their Country. Our warlike Preparations will always, in such a Case, be said to be intended against some neighbouring Nation that has insulted and injured us, though our Ministers be secretly resolved to submit to every Indignity that can be put upon the Nation by neighbouring Powers, rather than be interrupted, by a foreign War, in the Hostilities they are carrying on against the Constitution and Liberties of their Country. By such a Pretence, my Lords, many Gentlemen may be induced to accept of Commissions, many private Men may be induced to list as Soldiers, with the honest and brave View of serving their Country against its foreign Enemies ; but after they

they have once entered into the Service, they may, by our Ann. 12 Geo. III.
Mutiny Bill, thus interpreted, be compelled to serve against 1739.
their Country, by assisting its domestic and most dangerous
Enemies; for they cannot then leave the Service, when they
have a Mind, nor can they safely refuse to obey any Order
they receive from their commanding Officer; because the
Court Martial is to determine, whether the Order be law-
ful or not; and a Court Martial, chosen by a Minister, will
probably determine every Command to be lawful, that pro-
ceeds from his Authority, secret or revealed.

‘ Having now shewn, my Lords, that it is dangerous, un-
necessary, and inconsistent with the Bill already passed into a
Law, to comply with this Message, I need not, I think, ex-
patriate upon the Consequences of our not complying with the
latter part of it; for let those Consequences be as dangerous
as they will, I hope I have made it appear, that it ought not
to be complied with. But the Consequences of our not com-
plying with it, are so far from being dangerous, that, I
think, it will be attended with great Advantages. *Spain*,
I am convinced, has no Hopes from a War, if on our Side
it be wisely and vigorously prosecuted. Their only Hopes, I
believe, are founded upon the Continuance of our present
Administration. They have by Experience found, that our
present Ministers may be amused, and they hope to amuse
them with Negotiations for some Years longer; or if they
cannot amuse them with peaceable Negotiations, they hope,
that our warlike Measures will be carried on in the same lan-
guid and ill-judged Manner, our peaceful Measures have been;
in which Case they may, like the Terrier with the Fox, by
mere teasing, at last force us to accept of unequal and disho-
nourable Terms. We can no Way put an End to these
Hopes so effectually, as by shewing, that our Parliament is
not under the absolute Direction of our Administration. If
the *Spaniards* see, as they must see by our refusing to com-
ply with this Message, that the Parliament has seriously taken
the State of the Nation into Consideration, and that we have
resolved to be what we really are, his Majesty’s chief and su-
preme Council, their flattering Hopes will all vanish, and
then they will of course comply with our just Demands.
The 95,000 *l.* will be paid upon the Day appointed, and all
other Disputes will soon be settled to the Honour and Ad-
vantage of this Nation; so that if the 95,000 *l.* should not
be paid, or if a War should ensue, I shall impute it to our
complying with the Message now before us.

‘ I am surprized, my Lords, to hear it said, that our re-
fusing to comply with this Message, would give the Court of
Spain, or any other Court in *Europe*, Cause to imagine, that
1739. F f there

Ann. 12 Geo. II.

1739.

there would be a Breach between his Majesty and his Parliament. Can we suppose, that Court, or any Court, so ignorant of our Constitution, as not to distinguish between his Majesty and his Ministers? Can we suppose them so ignorant of his Majesty's Regard for our Constitution, as to imagine, that he would espouse the Cause of his Ministers against his Parliament? God forbid! that any of his illustrious Family ever should, I am sure he never will; therefore, all the Court of *Spain* could expect from such a Parliamentary Contumacy as I am now pleading for, is, that it would produce a Change of Ministers; and from such a Change, I am convinced, they can expect no Advantage. If they saw but the least Reason to suspect it, I am persuaded, they would be glad to comply, not only with what they have promised, but with every Thing we could in Justice demand. If an honourable Peace, therefore, be a desirable Thing, as it surely is, I must think our refusing to comply with this Message, the most ready way to obtain it; and for this Reason, among many others, I shall give my Negative to the Question.'

In the Issue of this Debate the Court Lords carried their Point; and the following Address being agreed upon the same Day, was afterwards presented to his Majesty.

Most gracious Sovereign,

WE your Majesty's most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg leave to express the grateful Sense we have of your Majesty's Royal Care and Attention for the Peace and Welfare of these Kingdoms, and for preserving the public Tranquillity, and the Balance of Power in *Europe*.

At the same Time, permit us to return your Majesty our humble Thanks, for having concluded a Treaty of defensive Alliance with the King of *Denmark*, and for having ordered the same to be laid before us; and to assure your Majesty of our Concurrence, and Support, in making good the Engagements which you have thereby entered into.

We also beseech your Majesty, to accept the strongest Assurances, that we will zealously and cheerfully support your Majesty, in making such further Augmentation of your Forces,

* The House of Commons in compliance with the Message voted 72583*l.* for the Subsidy to *Denmark*, and 500,000 for augmenting the Forces upon any Exigency.

Forces, either by Sea or Land, as may become absolutely necessary, by Reason of any Emergency, arising from the present Posture of Affairs in *Europe*, which may nearly concern the Honour, Interest, and Safety of these Kingdoms; and in concerting such Measures, as the Exigency of Affairs may require.

Ann. 12 Geo. II.
1739.

His MAJESTY'S Answer.

' My Lords, I take this Address as a real Mark of your Zeal and Affection for my Person and Government. You may depend upon it, that the Confidence which you repose in me, shall be made use of, with the strictest Regard to the true Interest of my People.'

The Reader may remember, that by the Convention *Great Britain* stood engaged to pay to the Crown of *Spain*, the Sum of 60,000 *l.* in Consideration of the Ships destroyed and taken in the *Mediterranean Sea*, in the Time *K. George I.* which Sum was to be applied towards the Relief of the *British* Merchants, who had suffered by the *Spanish* Depredations. Accordingly, a Clause was inserted in a Bill, by which the said Sum was provided for, to be paid by the Parliament. After this Bill had passed the House of Commons, and had received a first Reading in the House of Lords, towards the latter End of the Session, the Lord Bathurst spoke to the following Purpose.

Debate on a Clause for raising 60,000 *l.* to be paid the *Spaniards*, in Virtue of the Convention.

' My Lords, The Time is now expired, that was stipulated by the Convention, for the Payment of the 95,000 Pounds; and we have now before us a Bill, by which his Majesty is enabled to pay 60,000 Pounds, towards the Discharge of a Debt owing to the Crown of *Spain*. As we are so very punctual in fulfilling our Engagements to that Crown, I think, it would be highly worthy of this House, to address his Majesty, to know if that Crown has fulfilled any Part of her Engagements to us. Therefore, I hope, your Lordships will pardon me, if I take the Liberty to move,

Lord Bathurst.

' — That an humble Address be presented to his Majesty, that he would be graciously pleased to acquaint this House, whether or not the Sum of 95,000 Pounds, stipulated by the late Convention, on the Part of *Spain*, to be paid in Consideration of the Damages sustained by his Majesty's trading Subjects in the *West-Indies*, is yet paid; and, if it is not paid, that his Majesty would be graciously pleased to inform the House, what Reasons have been given, on the Part of that Crown, for the Non-payment.'

Moves for an Address, to know whether *Spain* has paid the Money stipulated by the Convention.

1739.

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Ann. 12 Geo. II.

1739.

Duke of *Newcastle*.Duke of *Newcastle*.

‘ My Lords, It was natural to foresee, that a Motion of this kind would be made. Therefore, I have leave from his Majesty to acquaint the House, that the said Sum is not paid, and that no Reasons have as yet been given on the Part of *Spain*, for the Non-payment.’

Earl of *Aylsford*.Earl of *Aylsford*.

‘ My Lords, It is very surprizing, that any Lord should take upon him to bar the Access of the House to his Majesty, and, I think, that this Answer is by no Means Parliamentary. The noble Lord said, he has leave to acquaint the House, so and so. — How could his Grace know what Motion was to be made in this House? And if he did know, is it not a very great Proof of the noble Duke's Courage, to take upon him to step betwixt his Majesty and this great Council, and return a verbal Answer to an Address, before it has been presented, even before it has been agreed to? My Lords, how will this be looked on without Doors? May it not be very justly thought, that this Answer is calculated, to exclude from his Majesty's Presence, all those who had the Honour to vote against the Convention?’

The Duke of *Newcastle*.The Duke of *Newcastle*.

‘ My Lords, I thought I was doing the House a Piece of Service, in saving Time thus late in the Session. The Answer I have given, is the very same that the House will receive, if the Address should be presented.

‘ But, my Lords, I have another Reason for opposing this Motion, and that is, Because it is by no Means Parliamentary. The Motion is for an Address, That his Majesty would be graciously pleased to acquaint the House; whereas, all Addresses of that kind, are, That his Majesty would order the Secretary of State, or the proper Officer, to lay before the House the Papers that may be necessary for our Information in such Cases. Now, my Lords, this is the very Thing his Majesty has done. There are no Papers, indeed, to be laid before the House on this Occasion, but he has ordered me, who have the Honour to be a Secretary of State, to return the House the same Answer that would have been returned, if the Address had been presented.

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‘ As to my Intention of precluding the noble Lords from having Access to his Majesty, I do aver, my Lords, that I am so far from having any such Intention, that nothing would give me greater Pleasure, than to see the noble Lords, who voted against the Convention, more assiduous than they are, in paying their Duty personally to his Majesty. Therefore, my Lords, I hope this Motion will be thought improper; and the rather, because the Term stipulated for the Payment, has been but a very few Days elapsed, and it would be rash to come to any Resolutions on this Head, (which we must do, if the Address should be presented) without having a little farther Patience.

Ann. 12 Geo. II.

1739.

The Duke of *Argyle*.

My Lords, It is now high Time for us to lay aside using the Medium of Ministers, in presenting Addresses, or receiving Answers from the Crown. We ought now, my Lords, to inform his Majesty our selves, of Things that the Ministry appear to have neglected. It was foretold again and again in this House, that this Money never would be paid; and the whole Merit of the Convention was to stand or fall by the Behaviour of the Court of *Spain* in that respect. Now it appears, that the Money is not paid. What is to be done? Shall we again trust to Ministers, who, it is evident, have mis-informed his Majesty in every Step in this Affair? No. Let us apply to the Crown our selves; his Majesty's known tender Regard to the Rights of his Subjects, leaves us no room to doubt of obtaining Redress. I must take Notice of somewhat said by the noble Lord who spoke last: He thought it was always customary for the Crown to return its Answers to this House by the Ministers. It may be the Custom, my Lords, but this House has sometimes been so dissatisfied with such a Proceeding, that we have addressed the Crown to know by whose Advice such an Answer was given. If the Address now moved for, could be answer'd by any Papers to be laid before us, we had no Occasion to address, we needed but have appointed a Committee, with the Power that Committees commonly have, of sending for Papers, Records, or Persons, as they think fit. But, my Lords, it is not so much for Information, that we ought to agree to this Address; we ought to agree to it, in order to open a Communication betwixt his Majesty and his great Council, without Intervention of a Minister.

The Word Minister, my Lords, has been very much misunderstood of late. It has a *British* and a *French* Signification. In the *British* Sense, my Lords, it signifies a Servant of

Apr. 12 Geo. II. of the Parliament, a Servant of the People, as well as of the Crown ; and this House has formerly understood Ministers to be under their immediate Direction. We have an Instance of it in the Reign of King *Charles II.* when upon a Complaint of a Breach of Privilege to this House, the offending Party fled to *Holland* : What did this House do, my Lords ? It ordered, by its own Authority, the Secretary of State to write to *Holland*, and reclaim the Offender.

1739.

The French Sense of the Word Minister, my Lords, *Maitre de Palais*, is one who acts in Place of the King, one who is accountable to none but the King, let him be guilty of never so many Miscarriages or Mismanagements. I am sorry to see it, but we seem of late to have adopted this last Sense of the Word. Ministers of *Great Britain* seem to be as absolute as they are in *France* : But, my Lords, I hope your Lordships will assert the Dignity of this House, and agree to this Address.

The Motion over-ruled.

The Question being then put, it was carried against addressing by 51 to 38.

Debate on the State of the Nation.

The Division being over, the Lord *Carteret* said, that as the House had found itself to be informed in a Parliamentary way, that as the 95,000 Pounds were not paid by *Spain*, they had now a Parliamentary Foundation to go upon ; and therefore he moved, that a Day might be appointed for taking the State of the Nation into Consideration ; which was agreed to.

Accordingly on the Day appointed, the Lord *Carteret* opened the Debate as follows :

The Lord *Carteret*.

‘ My Lords, We are now met to consider of the State of the Nation, a State more fit for Meditation than Discourse ; a State whereof none of our Forefathers has seen the Parallel, and which requires all your Lordships Attention to prevent our Posterity from feeling its Consequences.

As your Lordships have already found, that the Obligations which *Spain* had entered into by the late Convention, are on her Part unfulfilled, the House, I hope, will pardon me if I now treat that Measure as no longer existing, and lay before your Lordships a Detail of, what Prudence, Honour, and a just Regard for the Interest of this Nation, ought to have dictated to those, who negotiated that Convention, as the proper Measures to be pursued, instead of that ruinous Treaty.

Give me Leave, therefore, my Lords, to say, that after the Refusal, on the Part of *Spain*, to give up the Point of

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No Search, our Ministry shewed a Disrespect to the Sentiments of this House, in any longer continuing their Negotiations with that Court. His Majesty, the Nation, and all the World must have acquitted them, if on such a Refusal they had no longer looked on the Differences with *Spain*, as the Cause of the Ministry, but of the Parliament; they ought then to have appealed to the Parliament for Justice, and we, my Lords, must have supported them, because the Discontinuance of their Negotiations was but the necessary Consequence of our own Advice to his Majesty. The Breach of the Convention on the Part of *Spain*, my Lords, regains us that Opportunity, which we are now to improve, in the same Manner as if the Convention had never been made.

Ann. 12 Geo. II.

1739.

We must therefore, my Lords, now have recourse to Arms; and, I believe, I need not suggest to your Lordships, that the Sea is the only Element where our Quarrel can be decided, as it is the Element on which it began. This, my Lords, was easy to have been foreseen by our Ministry, even before the Convention was concluded. But now, my Lords, as *Spain* has wounded the Honour of the Crown, and People of *Great Britain*, by adding a Breach of that Convention to other Insults and Injuries, we ought to proceed after a more vigorous Manner, than might have been necessary before the Convention was concluded. We ought not now so much as to mention Reprisals by our Merchants. Reprisals by Merchants, my Lords, to a little State are pernicious, and to a great one dishonourable. As the Insult has been offered to his Majesty, his Majesty's Ships ought to make Reprisals; therefore, I was surprised when I heard it mentioned without Doors, on this Occasion, that the Ministry had offered Reprisals to Merchantmen and private Persons. If the Royal Navy of *Great Britain* does not act now, we may despair of ever seeing it act; for, my Lords, if all the Circumstances of the last Insult, which *Spain* has offered to the Nation, are considered, we perhaps shall not find the like recorded in History. She has now her Ships ready to sail for the *West Indies*; she has other Ships, the Property of which belongs all to herself, on their Voyage homewards; yet she holds us so much in Contempt, that tho' she could get the one sent out, and the other brought home with Safety, by paying this paltry Sum of 95,000 *l.* she refuses to do it. Is not this, my Lords, telling us that she will treat no longer; that we dare not resent whatever Affront she gives us; and that she will risk all the Effects, all the Trade she has at Sea, rather than fulfil one Article of her Engagements?

As this, my Lords, is evidently the State of this Nation, with regard to *Spain*, I shall beg Leave to make a Motion to
your

Ann. 12 Geo. II. your Lordships, which I intend as an Introduction to some
 1739- others that may follow, if your Lordships shall think fit to agree to what I am now to propose.

Moves that
Spain's not pay-
ing the 95,000 l.
is a Breach of the
Convention.

I therefore, humbly move your Lordships, to resolve, that the Nonpayment of the 95,000 *l.* agreed by Treaty to be due from the Crown of *Spain*, as a Ballance to the Crown and Subjects of *Great Britain*, and expressly stipulated to be paid in Money in *London*, within 120 Days after the Exchange of the Ratification, which Time is now expired, is a manifest Infraction, on the Part of *Spain*, of the Convention lately concluded between the two Crowns, an high Indignity to his Majesty, and an Injustice to the Nation.

Lord *Hallifax*.

Lord *Hallifax*.

My Lords, could I be persuaded that the same Conduct, which has sunk the Nation to that degree of Contempt, which the noble Lord has just mentioned, could regain her Honour, and assert her Dignity, I should not have troubled your Lordships on this Occasion. But, my Lords, convinced as I am, that a Continuance of the same Conduct will, if possible, sink us still lower in the Eyes of every Nation in *Europe*, I cannot help taking this Opportunity of expressing my Concurrence with the Motion made by the noble Lord. I do it, my Lords, from no Disrespect to the Persons of those who have the Honour to be employed by his Majesty; far less do I mean to reflect on any noble Lord here. I have the greatest personal Regard for many of the noble Lords whom I see, and who I know have had the Honour to advise his Majesty; but, my Lords, as I am persuaded they acted to the best of their Knowledge, I hope I shall be pardoned if I act to the best of mine, and declare to your Lordships, that my sincere Opinion is, that it is now high time for this House to speak the Sense of the Nation, and endeavour to regain by our Arms what we have lost by our Councils.

The Duke of *Newcastle*.

Duke of *New-*
castle.

My Lords, the noble Lord who spoke last, has delivered himself with so much Decency, that I am sorry I am obliged to differ from his Lordship as to the Fitness of the present Motion. The Fact, my Lords, contained in the Motion, is what I shall be far from denying; I readily own, that *Spain* has behaved in a most scandalous, unaccountable Manner to this Kingdom, and that she merits the severest Chastisement of our Arms. But, my Lords, give me leave to ob-

serve,

drive, that it is not *Spain* alone whom we are to consider in the present Question ; had we to do with her only we could soon bring her to Reason. But, my Lords, who can answer for the Part that a neighbouring Power, greater than *Spain*, may take in this Quarrel ? I don't mean that we are tamely to put up with Affronts and Losses for fear of this neighbouring Power ; I only think it is highly worthy your Lordships Deliberation, to consider how far it is proper to put both that Power and *Spain* upon their Guard, by our coming to a Resolution that must inevitably produce an Address to his Majesty for an immediate Declaration of War. What makes this Consideration, my Lords, the more necessary at present, is, that the Kingdom is at this Juncture unprovided to make Head against these two Powers. Let us once, my Lords, put our selves in a Condition to strike a Blow, and then we may strike it surely and safely. But by coming to this Resolution we give our Enemies Warning, we put them on their Guard, which may be the Means of our miscarrying.

' My Lords, I look upon the Convention in a different Light from the noble Lord who made the Motion, and tho' I did not think that it was a good Measure, as I sincerely do, I think myself obliged to treat it with some Decency, because it was approved by this House. However, my Lords, as I have no Objection to the Facts contained in this Motion, but only to the Prudence of our agreeing to it at this Juncture, I humbly move that the previous Question may be put.'

The Lord *Strafford* spoke next, and was of Opinion, That The Earl of the Question should be put upon the Motion ; but the Lord *Strafford*, Chancellor, saying, That any Peer might move for a previous Question, the House seemed to acquiesce in his Opinion, and the Lord *Chesterfield* spoke next in Substance as follows.

The Earl of *Chesterfield*.

' My Lords, I shall deliver myself to your Lordships in The Earl of the same Manner as if the Question itself were put, lest I *Chesterfield*, should not have another Opportunity of speaking on this Subject

' The State of this Nation, my Lords, is a very complicated Subject, and requires that we should look farther back than the present Juncture. Our melancholy Situation is owing to a Series of Misconduct for many Years past. This Kingdom has paid immense Sums towards the Support of the Government, without receiving the least Advantage in return. Are our Manufactures improved ? Is our Trade extended ? Have the Arts of Peace been cultivated among us,

Ann. 12 Geo. II. 1739. during the long expensive Peace we have enjoyed? No! they are all visibly gone to decay. Have we suffered these to go to decay, in order to reduce a formidable Enemy, or to quell domestic Insurrections? No! our Enemies are more insolent and powerful than ever, and domestic Insurrections we have had none. Even at this Instant, my Lords, *Spain* continues her Depredations with more Violence than ever, and yet the People of these Nations are willing to contribute their last Shilling, to enable the Government to support its own Honour. 'Tis this last Insult, my Lords, we have received from *Spain*, is of a Piece with the rest of her Conduct, for these 20 Years past. What could we expect after submitting to the Terms of the Convention, after submitting to reduce the Demands of our Merchants very near one half, after submitting to accept of their infamous Protest, and after submitting to deduct 45,000*l.* for the prompt Payment of what will never be paid?

'The noble Duke has told us, that we don't know what Part a neighbouring Power may take, if we should proceed to violent Measures. Let her take what Part she will, my Lords, we can be in no worse Situation than we are, But what Part can she take? She cannot look us in the Face at Sea; she cannot prevent our seizing the *Spanish* Plate-Fleet; she cannot reclaim one Farthing of the Effects, if we should seize them, because they are all entered in *Spanish* Names; and therefore it will become our lawful Prize. But, says the noble Duke, We are not yet ready. What not ready, my Lords, at this time of Day? Whose Fault is that? Has the Government been refused any Thing it has asked to strengthen his Majesty's Hands? or has any thing happened that was not both foreseen and foretold? I remember, my Lords, it was foretold that this Money never would be paid; and what was the Answer? It was insisted on, that we were so formidable that *Spain* never would dare to refuse to pay it. The whole Merit of the Convention was put on that single Point. Can you doubt, said they, that *Spain* has disavowed her Depredations, when here she pays Damages for them? *Habetis confitentem reum*: Sure she'll never pretend to insult us for the future. But, my Lords, we see she has not only not paid it, but holds us so much in Contempt, that she wont so much as give a Reason for her Refusal. By this, my Lords, she has given the Lye to every Argument advanced in favour of the Convention, and I hope we shall not act so far below the Dignity of this House, as to refuse to put a Question upon a Fact that is on all Hands acknowledged to be true. This, my Lords, would give every foreign Power, and every Man in the Kingdom without Doors,

a more contemptible Opinion of us, than they have ever yet had of the Ministry. Let us therefore, my Lords, as a noble Lord said, with a Spirit worthy of the Blood and Name he bears, for once speak the Sense of the Nation, and endeavour to regain by our Arms, what we have lost by our Councils. Let us lay before his Majesty the true State of the Nation, that he may no longer be imposed upon by those who have so notoriously betrayed her Interest, and disregarded his Honour.

Ann. 12 Geo. II.

1739.

Earl of Cholmondeley.

‘ My Lords, if I thought that our putting the main Question could be of any Service, either to his Majesty, or the Kingdom, no Lord should more readily agree to it than myself. But as I am persuaded that it might be a Detriment to both, and could, in no Event, be of any Advantage to either, I must beg leave to be against it. The noble Lord, who spoke first, said very rightly, that *Spain*, by not complying with the Payment of the 95,000 Pounds, had forfeited a great many Advantages of much superior Consideration, which she might have had if she had paid it. My Lords, this is one Reason, to me, for thinking that *Spain* is not so unprovided of Alliances and Forces as we flatter ourselves, otherwise she would never have done so impolitic, so unjust a Thing. And, my Lords, give me leave to say, that if we should attack the *Spanish* Plate-Fleet, *Spain* would be the least Sufferer, the Loss must come upon us and our Allies, so that all we should gain, must be the Ill-will of our Neighbours, and the Ruin of our Merchants. A noble Lord who spoke in the Debate, said, that we were to consider all the Effects in that Fleet, if seized, as lawful Prize, because entered in *Spanish* Names. They are so, my Lords; but we know it has been always understood, that so much of these Effects as belonged to other Nations, have been as much their own Property, as if they had been actually entered in their own Names; and that, before now, they have been both reclaimed and restored as such. Therefore, my Lords, as I see no Good that can attend our putting the main Question, I hope your Lordships will agree to our putting the previous Question.’

Earl of Cholmondeley.

Lord Bathurst.

‘ My Lords, I own that I am for going upon the main Question, because, if we longer defer entering into vigorous Measures, we may lose an Opportunity we never can regain.

Lord Bathurst.

Ann. 12 Geo. II. We have trifled too long with *Spain*, and if we should trifle longer, the generous Resentment of this Nation may wear off; People will begin to think that they are for ever to suffer, and, instead of blaming *Spain*, they may blame us. For my own part, my Lords, I wish to see something done towards retrieving the Honour of this Kingdom, while I myself, if there were Occasion, might be able to bear a Part in the Service of my Country, before I am render'd unable to do any more than to sit down in a great Chair and bewail her Calamities. This, my Lords, may be the Case of every Lord in this House, who shall have the Misfortune to live, and to see the Event of our Differences with *Spain*, if Things are managed as they have been for some Years past.

1739.

‘Many Circumstances, my Lords, concur to render this a fit Opportunity of making War upon that insulting Power. We have now Generals, we have Admirals alive, who have seen the Face of Danger; who have formerly helped to reduce the Power of that Nation which now dictates the Councils of *Spain*. The *Spaniards* themselves, my Lords, are in no Condition to resist us: In *Old Spain* a barren Year has reduced the Inhabitants to the utmost Misery; the Court itself is obliged to retrench its Expences in Pensions and Salaries. I wish we were so wise as to follow their Example in this. In *America* their Subjects would be glad of a Change in Government, so intolerable is the Oppression of their Governors, who are generally the hungry, needy Countrymen of her Catholic Majesty, who sends them over to fleece the People. For some Time, my Lords, after the Conquest of *New Spain*, every *Spaniard* was qualified to be a Governor there; but afterwards the Court grew jealous, and would suffer only Natives of *Old Spain* to be appointed Governors; at last, only Natives of the antient Kingdom were to have that important Trust. Since her Catholic Majesty has had so much Sway in the Management of Affairs of State, the Governors in *America* are generally *Italians*. In short, my Lords, the whole *Spanish* Monarchy is now managed by a Faction. Shall we be afraid of a People governed by a Faction? Or, my Lords, if we were governed by a Faction, would any People in the World be afraid of us? Therefore, my Lords, I hope your Lordships will put the main Question, and convince *Spain*, and all *Europe*, how dangerous it is for any Nation to insult the Honour of this Kingdom.’

Lord Hervey.

The Lord *Hervey* observed next, ‘That the Complaints made against the Convention were apparently groundless. For if it had been a bad Measure for the Kingdom, the *Spaniards* would certainly have fulfilled it; but as it was for the Advantage

Advantage of the Kingdom, they had repeated, and refused *Ann. 12 Geo. III.*
to fulfil it.' 1739.

Lord Viscount *Lonsdale*.

' My Lords, I should be glad to suggest any thing that might reconcile the different Opinions of the noble Lords who have spoken in this Debate. I own, my Lords, I am for putting the main Question, but not as it stands. I see no Reason for our declaring the Non-payment of 95,000 *l.* to be an Indignity to the King, and an Injustice to the Kingdom. I think the Motion would do better if it wanted these Words, and my Reasons are these : By the *American* Treaty betwixt us and *Spain*, either Nation is at Liberty to use Letters of Reprisals, or other Methods of obtaining Satisfaction, if Justice is either absolutely deny'd, or unreasonably delay'd by the other. Now, my Lords, as the Convention is unfulfilled on the Part of *Spain*, and as one End of the Convention was to obtain Justice to the Merchants of this Kingdom, it necessarily follows, that that Justice is absolutely deny'd. Therefore we are to look upon ourselves in the same Situation we were in before the Convention was concluded, and ought to proceed in the same Manner as if it never had existed. If it never had existed, my Lords, we must have had Recourse to that Article ; we ought to do so now, and if we do, we act strictly up to the Sense of Treaties ; we deprive *Spain* of all Pretences for calling in her Allies to her Aid ; and we expose her Injustice while we are chastising her Insolence. If she should go to War upon this, then she is the Aggressor, and all *Europe* will acquit us of any ambitious Views upon her Trade, or Intention to disturb the common Tranquillity. I will make no Motion upon this, my Lords, but I humbly apprehend, that the Question would stand better if it wanted these last Words.'

Lord Viscount
Lonsdale.

The Lord Chancellor.

' My Lords, when I hear a Resolution of this kind mov'd for in this House, I not only consider the Matter of the Resolution propos'd, but I take, as far as I am able, under my View, all that is consequent upon, or connected with it. This Resolution contains, my Lords, indeed, an undisputed Fact ; but when I consider that it must be attended with another Question, as the noble Lord who made the Motion insinuated, I consider the Consequence of that Question. This, my Lords, must produce an Address to his Majesty for an immediate Declaration of War. An immediate Declaration

The Lord Chan-
cellor.

tion

Ann. 73 Geo. III. tion of War, my Lords, at this Time, I apprehend would
 1739. be very impolitic in us. We might put *Spain* upon her Guard by such a Measure, and deprive ourselves of many Advantages we might have by falling upon her without giving her any such Notice. Besides, my Lords, the Effects of all our Merchants in the *Spanish* Dominions must fall into the Hands of that Court, if we declare War at this Juncture. But, my Lords, I am by no means for putting the War longer off. I agree with the noble Lord who made the Motion, that the State of the Nation is more proper for Meditation than Discourse: I will go farther, my Lords, and say, that it is more proper for Meditation and Action too, than Discourse. I am for entering upon Action immediately, and that we may do it more successfully, I think we ought to enter into no Measures that may put our Enemies upon their Guard. I hope therefore your Lordships will agree to the putting the previous Question.

The Duke of Argyle.

Duke of Argyle. ' My Lords, I believe it was never before known that every Lord of this House owned a Matter of Fact to be true in a Debate, and yet refused to own it upon the Question. This, my Lords, looks very mysterious, and I don't love Mysteries. When People follow Mysteries, they are apt to fall into Bigotry. I am, my Lords, for our treading in the plain Road of Truth, nor can I see the least Inconveniency that can ensue, if we should put the main Question. Shall it be said, my Lords, that this House was afraid to speak the Truth? What Power on Earth should we be afraid of, while we have a just Cause, a gracious Sovereign, and a brave People, to support us?

The noble Lord who spoke last supposed, that if we did not declare War we might attack *Spain* unprovided. My Lords, if I were to give a Man a Blow with a Cudgel behind his Back, it is to be supposed that this Man, if he resented the Blow immediately, could take me unprovided, unless he look'd upon me, my Lords, as a downright Fool? Is he not to expect that, after giving him such an Affront, I will be as ready with my Sword as he can be with his? The Case, my Lords, is exactly the same betwixt us and *Spain*. She has insulted us to the last Degree, she has wronged us, she has broken her Faith with us, and as she has done that, are we to expect to steal a Satisfaction of her by her being unprepared? I wish with all my Heart, my Lords, she may be unprepared; but whether she is or not, our agreeing to this Resolution can be of no Service to her, and
 our

our not agreeing to it may be a very great Discouragement *Ann. 12 Geo. II.*
to every Man who wishes well to his Majesty's Person and Government. Therefore I hope the main Question will be *1739.*
put.

The Earl of Scarborough.

' My Lords, the Part I have all along acted in this Affair *The Earl of*
leaves, I hope, no room to doubt of my Impartiality. Your *Scarborough.*
Lordships may remember that I was for the Address in the
beginning of the Session, because I thought it a Piece of per-
sonal Respect due to his Majesty. When the Convention
came to be considered, I opposed it, as I shall do every
Thing that I think contrary to the Honour and Interest of
my Sovereign and my Country. My Lords, as this Con-
sideration has ever prevailed with me, preferably to any mi-
nisterial Attachment, so I have never yet been sway'd by
the Motives of any Party or Opposition to give my Voice
against the Measures of the Ministry, when I thought they
tended to the Good of my Country. Therefore, my Lords,
I flatter myself that your Lordships will look upon what I
am now to say as the Dictates of an unprejudiced Heart,
uninfluenced by Hopes, and unawed by Fears. I have, my
Lords, given all the Attention I was capable of giving to
the present Debate; I came into the House undetermined
how to vote in this Question; but resolved to vote on that
Side which should appear to me, on the Debate, to be most
reasonable: And, my Lords, with so equal, so unprejudiced
a Mind have I heard this Debate, that (I don't know if I
ought to tell it) since I came into this House, I have chang-
ed my Sentiments three or four times. Before the noble
Lord who spoke last rose up, I was quite at a Loss on which
Side to give my Voice; but what his Lordship said has at
last determined me.

' The Affair we are now upon, my Lords, may be re-
solved into this Alternative, Whether it is most prudent for
us to agree to a Resolution which must produce an Address
for a War, or depend on the Ministry's taking the proper
Measures? My Lords, if we agree to the former Proposi-
tion, we may hurry the Ministry too much; and if the Na-
tion does not receive that Satisfaction she expects, we may
give them too good a Pretext for excusing themselves, by
saying, the Affair was taken out of their Hands, — the Mea-
sures they had laid down were rendered ineffectual by the
Interposition of other Councils. My Lords, I am for tak-
ing from them all Pretexts of this Kind, by devolving all
upon them. The noble Lord who spoke last, and who not
only

Ann. 12 Geo. II.

1739.

only knows as much, but has as good a Foresight, as any Lord in this House, has declared enough to satisfy me. His Lordship said that the present was a Time more fit for Meditation and Action too than for Discourse. What stronger Assurances can your Lordships desire that the Ministry will act a Part becoming *Britons*; that they will amply revenge the Wrongs we have already suffered, and provide for the Honour and Safety of the *Kingdom*? My Lords, let me become Surety for their Proceedings on this Occasion. I know many amongst them to be Men of such Worth, that they would disdain to amuse the Nation, or to impose upon this House by Sham-Preparations or Mock-Assurances. My Lords, if they should act in so scandalous a Manner, I should be the first Man in this House to move for bringing them to Justice; nay, my Lords, I here solemnly promise to your Lordships, that if, before your next Meeting, every End is not answered which we could gain by agreeing to the Motion for this Resolution, I myself will, on the first Day of the next Session, move the House to call them to an Account.

But, my Lords, my Hopes that we shall act a becoming Part on this Occasion are not grounded so much on the Confidence I have in the Ministry, as on my Knowledge of his Majesty's tender Regard to the Rights and Properties of his Subjects. No Consideration, my Lords, after what we have suffered from *Spain*, can induce his Majesty to act any other than a vigorous and an honourable Part; and, my Lords, I think it would be doing an Injury to his Majesty's known Zeal for the Good of the Nation, if we should precipitate Measures by interposing in what he has, to my knowledge, already resolved upon. Therefore let me desire your Lordships to drop the main Question, and to put the previous one.

The previous Question being put, it was carried against putting the main Question, 63 against 44.

June 14, His Majesty put an End to the Session with a Speech, which see in *Candler's Hist. Ann. 12 Georg. II.* p. 173, 186.

The MANIFESTO of his CATHOLIC MAJESTY.

Vindicating his Conduct in regard to the late Convention; also the Reasons why he has not paid the 95,000 *l.* Sterling.

The KING.

Our Desire not not to disturb the Tranquillity of *Europe*, and to maintain our Subjects in Peace, has, for some Time past, put us upon doing Violence, in some Measure,

to the Nicety of our Honour, and the Advantages of our Ann. 12 Geo. II. Interests.

1739.

' *England*, disquieted with domestic Divisions, has urg'd her Complaints with such Obstinacy, tho' perhaps conscious how little they are founded on Justice, that, if our sincere Disposition had not found more Weight in the forementioned Considerations than in her Instances, these Disputes might, long ago, have proceeded to a fatal Rupture, not without Powerful Motives on our Behalf. The Proof of this is plain from the Answers given to her Officers, and our condescending to their Proposals, so far as to admit the Regulation made at *London* of the respective Demands, not regarding the exorbitant raising her Prices, nor the lowering of our own, with a View only to obtain Peace on the tolerable Condition of dissembling this Advantage in favour of that Crown. The rest of the Negotiation, on our Part, was answerable to so noble a Sincerity.

' The Ministry at *London* reckoned our Claims on the *Affiento* Company into the Payment we were to make; and tho' we might have taken Advantage of the Company's Refusal to pay the same, in order to make Alterations in the other Articles agreed upon, the same Ministry knows, that we sent Orders to Don *Thomas Geraldino*, our Minister Plenipotentiary at that Court, to take up at Interest the 95,000*l.* that what had been promised might not rest unpaid.

' As soon as the Convention was signed at the *Pardo*, and ratified at *London*, We, prompted by our Good Faith, ordered our Squadrons to be disarm'd, sent the stipulated Directions to *Florida*, and perform'd all that was incumbent on us. But *England* has acted a very contrary Part: for having doubtless repented recalling Admiral *Haddock's* Squadron from the *Mediterranean*, it was ordered to be station'd at *Gibraltar*, as a much fitter Place for accomplishing the Design which, in all Appearance, was even then in Agitation, and has since been discovered; and at the same Time no Orders at all were sent to *Carolina*. The *British* King supported the Transactions of the Company, as an Engagement of his Crown, whereas before the Convention they were regarded only as a Contract made with a private Person.

' These Proofs of their not proceeding with Unanimity in their Intentions, obliged us, in the Beginning of *April* last, to notify, by our first Secretary of State, and of Dispatches, the Marquis de *Villarias*, to Mr. *Benjamin Keene*, Minister Plenipotentiary of the King of *Great Britain* at our Court, how much the Continuance of Admiral *Haddock's* Squadron at *Gibraltar* would hinder the full Effect of the Convention, notwithstanding any Securities that might be

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offered;

Ann. 12. Geo. II.

1739:

offered ; and finding that these Intimations were insufficient to check the threatening Danger, we resolved, that our Plenipotentiaries, in their first formal Conference with those of *England*, should repeat more at large the same Declaration, to the End that the Blame of having rendered ineffectual what had been stipulated, might never be imputed to us. The Effects of so worthy a Conduct have not been such as ought to be expected, but rather conformable to the Conduct observed by *England*, as is already mentioned in Substance : That is to say, Orders have been given to Admiral *Haddock* to cruise with his Squadron between the Capes *St. Vincent* and *St. Mary*, in order to await and surprize the *Assogue* Ships. Reprisals in a Stile not decent, have been published at *London*, and proceeded to Execution in several Parts, as appears by authentic Depositions of those who have suffered by them. Our Patience and Moderation being thus provoked, and since it would now become a Disgrace to our Power and Sovereignty to continue longer in the Inaction hitherto observed, we have determined, that there be likewise Reprisals made in our Dominions, and by our Subjects, upon the Goods and Effects of the King and Subjects of *Great Britain*, observing the Rules directed in the circular Orders which shall be issued for that Purpose. And to the End that this Resolution, and the prevailing Motives thereunto moving us, may be known to all the World, we have thought fit to publish them in manner as above. Given at *St. Idesense*, the 20th Day of *August*, 1739.

I the KING.

And lower,

Don Sebastian de la Quadra.

The King of *Spain*'s Reasons for not paying the 95,000 *L.* stipulated in the Convention, signed at the *Pardo*,
Jan. 14, 1739.

' The Convention is a Contract whereof the Engagements are reciprocal ; consequently, when either of the Parties fails in the Execution of them, the other is thereby disengaged ; and the first that fails, gives just Reason to the other to refuse to execute his Part. From whence it follows evidently, that the *British* Court having been the first that failed, and having contravened most of the Articles which were expressly stipulated in the said Convention, and those on which the signing thereof was founded, hath given Room to *Spain* not to execute her Part.

: The

- ' The first Contravention of *Great Britain* regards the very Ann 12. Dec. 11.
 Beginning of the Convention, where it is mentioned, ' That 1739.
 ' the two Kings having nothing more at Heart than to encrease
 ' and strengthen the good Understanding that has so happily
 ' subsisted between them, having agreed to labour by their
 ' Ministers with the utmost Application and Diligence to at-
 ' tain so desirable an End: ' In Consequence of this recipro-
 cal Disposition, the Court of *Great Britain* sent Orders to
 the *English* Squadron to quit the *Mediterranean*, and *Spain*
 disarm'd her Fleet: But being informed, that the Orders from
London were countermanded, she suspected that the Clamours
 of the Populace, and of a Party opposite to the Ministry,
 who were highly incensed against the Convention, had pre-
 vailed with the Court to recede from its Engagement. No-
 thing can be more destructive of, or contrary to a firm Estab-
 lishment of Friendship and good Correspondence, than
 Diffidence and Distrust; as keeping a Squadron, not only
 at *Port-Mahon* where it was at first, but also at *Gibraltar* in
 the Center of the Coasts of *Spain*; where it has been con-
 siderably reinforced, and can be designed for no other Pur-
 pose, but to interrupt and molest Trade, and can be looked
 upon in no other Light than a continual Hostility.

' The second Contravention arises from the second Article,
 which says, ' That immediately after the Ratification of the
 ' Convention, Orders shall be dispatched to *Florida* and *Caro-*
 ' *lina*, that the new Plantations and Fortresses of *Carolina*
 ' and *Georgia*, shall remain *in statu quo*, till the Plenipoten-
 ' tiaries shall have regulated the Limits.' The King of *Spain*
 performed his Part of the Engagement fully, but the King
 of *Great Britain* deferred for four Months executing his
 Part, with an Intent to give to his Subjects all that Time to
 encrease their Colonies, and build their Fortifications; nor
 even at this Hour is there any positive Proof that any Orders
 at all have been sent; it appears by a Letter of the Duke of
Newcastle, that there were none sent the 27th of *March*.

' What is still more remarkable with regard to this Con-
 travention, is, that at that Time three Men of War were
 sent under frivolous Pretences to reinforce the Squadron at
Jamaica, and that some Troops, and a great Quantity of
 warlike Stores, were sent thither on board several Ships.
 This Contravention is not unlike that of *Florida* in 1735,
 when it was agreed, that all Things should remain *in statu*
quo, till the Limits were regulated by the two Governors;
 the *English* Governor nevertheless went on in extending his
 Plantations, and committed several Hostilities against the *Span-*
iards, and his Catholic Majesty's *Indian* Vassals. Nor is

Ann. 12 Geo. II. this Contravention much unlike that in 1724, they both being Contraventions of open Treaties made with Spain.

1739.

' The 3d Contravention is founded on what was agreed to by his Catholic Majesty's Declaration, as the only Way to surmount so many Difficulties in Debate. The Words are, ' And in order that the said Convention may be signed, his ' Catholic Majesty reserves to himself, entire, the Right of suspending the *Affiento* of Negroes, and to dispatch the Orders necessary for the Execution thereof, in case the Company does not submit to pay, within a short time, 68,000 *l. Sterling*, which it has confessed to owe on the Profits of the Ship the *Royal Caroline*: And that under the Validity and Strength of this Protest, and no otherwise, the signing the said Convention may be proceeded on, and in consequence of this *special Condition, which may not be eluded on any Pretence whatsoever*, his Catholic Majesty has been induced thereto.'

' Nothing can be plainer or stronger than this Declaration, and yet, when the Conferences came to be opened, so little Regard was paid to it, that the *English* Plenipotentiaries begun with presenting a Memorial to demand the Effects taken in the *Indies* from the *Affiento* Company, by way of Reprisals in 1718 and 1727; and protested, that, until that Account was cleared, there would be no Payment of 68,000 *l. Sterling*, which was the Balance of a settled Account: Contrary to all Justice, they would confound a stated Sum, and put it upon an equal Foot with a Sum not at all stated or settled. His Majesty had offered two Schedules for the Viceroy's of *Peru* and *Mexico*, with an Order to pay, without any Delay, to the *Affiento* Company, what they should prove due to them on account of the said Reprisals; it was as much as he could grant: But the 68,000 *l. Sterling* was a settled, stated, executive Debt, payable within a short Time; it was the Basis and Foundation of the Convention, a Condition not to be eluded, under the Validity of which the signing was proceeded on, and not otherwise, as is expressly set forth in the Declaration, which was concerted with Mr. Keene, and notified four Days before the signing the Convention. Whence it results, that the *English*, by eluding the said Condition, have themselves broke and vacated the Substance and Validity of the said Convention.

' The Pretence of the *English* carries along with it another Contravention; for, by the second separate Article, this Affair was to be debated only in separate Negotiations, and not in the Conferences.

' The fourth Contravention is a Sequel to the former. The *English* Plenipotentiaries desired to have it declared, that

that the King had not a Power to suspend the *Assiento* Contract, as being a national Treaty ; whereas the contrary was expressly specified in the abovementioned Declaration, on the Validity of which depended the Validity of the Convention, Every body must see, that the *English* Ministry, instead of obliging the Company to pay the King the 68,000 *l.*, are seeking to elude the Payment of it, in Defiance of the Convention, and of the Declaration ; and would oblige the King to pay himself out of other Funds, by such Artifices undermining the very Foundation on which the Convention is built.

Ann. 12. Geo. II.
1739.

‘ The fifth Contravention is making a direct Application to the King, for the Restitution of an *English* Ship that was taken since the Convention was signed, contrary to the second separate Article, that refers all Matters that shall happen subsequent to the signing of the Convention, to the Discussion of the Plenipotentiaries in the Conferences.

‘ The sixth is, that whereas the Plenipotentiaries were to be furnished with Instructions within six Months, yet it was eight Months before *England* had sent any.

‘ It will not be improper here to take Notice of the *English* Ministry’s little Faith in his Catholic Majesty, though his Majesty had given a fair Example of Confidence in the 4th Article of the Convention. An Estimate having been made of six or seven Ships, the Value whereof is comprised in the 95,000 *l. Sterling* ; it is in that Article agreed, that as his Majesty had sent Orders to the *Indies* to make Satisfaction for those Ships, if it should happen, that, in Consequence of his Orders, a Part, or the whole Value of the said Ships, should be paid, the Sums so paid should be deducted out of the 95,000 *l.*. This last Sum was to be paid in four Months, without making any Terms about the Money paid in the *Indies*, pursuant to the aforesaid Order ; his Catholic Majesty trusting entirely to the Honour and Justice of the King of *Great Britain*.

‘ The 7th Contravention is, That the *English* Plenipotentiaries insisted on a Liberty of free Navigation in all the *American* Seas, claiming a Right to it by the Laws of Nations, by Treaties, and particularly by the 15th Article of the Treaty of 1670. This is a direct Infraction of the first Article of the Convention, wherein it is expressly stipulated, ‘ That the respective Pretensions of the two Crowns, with regard to Trade and Navigation in *America*, and *Europe*, shall be regulated and settled in the Conferences, according to ‘ Treaties, which are there specified.’ What is exacted here, as a manifest incontestable Right, is a Pretension and Claim in virtue of Treaties ; and there could not be a better Method

Ann. 72 Geo. II.
1739.

Method of settling those Pretensions, than to examine all those Treaties thoroughly, and compare them together, so as to come at the true and honest Sense and Meaning of them, without any Regard to the partial Meanings or Constructions of either of the Parties. This was the Provisional Answer the Catholic King gave to the *English* Plenipotentiaries Memorial of the 19th of *February*; nor could he have given any other, all Points relating to Trade and Navigation being submitted by the Convention to the Determination of the Plenipotentiaries. The *British* Minister insisted still on a free Navigation, and that it should not meet with any Interruption from the *Spanish* *Guarda Costas*. The King answered, *That there should be no Interruption contrary to Treaties*. Thereupon the Minister, in harsh Terms, and in Defiance of the Convention, insisted, That, without waiting to examine Treaties, a full Freedom of Navigation in all the *American* Seas should be forthwith agreed to. *England* has no Right of free Navigation, but to and from its own Colonies, in the same Manner as is stipulated with the *States-General*, who never pretended to, or desired more. This being a critical Point, it is proper to explain it distinctly and clearly.

It is declared by the eighth Article of the Treaty of *Utrecht* in 1713, That the Navigation of the *English* in *America* shall continue on the same Foot that it was in the Reign of *Charles* the Second. It is beyond all Dispute, that, during that Reign, all Strangers were excluded by the fundamental Laws of the Kingdom, from trading with, or entering into the *Spanish West-Indies*; and that the sole Liberty or Freedom thereof was reserved to the *Spaniards*. By the same Article, Queen *Anne* obliged herself not only to observe, but likewise to guarantee those fundamental Laws; and, of consequence, could not pretend to any further or other Right of free Navigation, but to and from her own Colonies. It was all that those Laws did admit of, and all that was practised in the Reign of *Charles* the Second. The Queen also obliged herself to pay a due Regard to, and guarantee the Limits in those Times; and, where any Encroachments had been made upon them, to restore and settle them upon the former ancient Footing. But this Part was not then complied with; which gives room for the present Disputes about new Colonies, the Removal of Frontiers, and Usurpation of Territories and whole Islands.

What has been now said, is sufficiently supported and proved by the Stipulation with the *States General* in the thirty-first Article of the Treaty of *Utrecht* in 1713. His Catholic Majesty obliges himself to re-establish and maintain the Navigation and Trade of those same *Spanish West-Indies* agreeable

agreeable to the Fundamental Laws of Spain, which prohibit all Foreign Nations from trading with, or entering into them; that Privilege and Benefit being reserved solely for the Spanish Subjects of his Catholic Majesty; and their High Mightinesses promise to give his Majesty their Assistance to fulfil this Article. In former Treaties with them, all that was stipulated was a free Navigation to their Colonies, and not to all the other Seas that were within his Catholic Majesty's Jurisdiction and Dominion, which are distinguished by the Character of the *Spanish Indies*, whereunto all Entrance and Trade are prohibited for very good Reasons: For as it is prohibited, as aforesaid, to trade with, or enter into the Ports or Harbours of the *Spanish Indies*, and Foreign Nations having no Colonies that require passing near those Seas, the claiming a Right of free Navigation to or near them can be with no other View, nor for any other Purpose than to increase the illicit, unwarrantable Trade which the *English* have for a long Time and do still carry on; a Trade that is already grown to too unreasonable an Extent, it yielding yearly several Millions, as they themselves confess; a Trade that is contrary to all Laws of Justice and Equity, prejudicial to the Trade allow'd to, and enjoy'd by other Nations, and greatly hurtful and injurious to his Catholic Majesty's Revenues and Government.

' There is all the Reason in the World to be surprized at this Demand, since the *English* imagine, and pretend they may, even in the midst of *Europe*, assume to themselves the supreme Dominion on the Ocean, though it be common to all Sovereigns whose Dominions it washes; and laying a Stress on the Name they give it of *British Sea*, would not only exact, that the Ships of all Nations should strike their Colours before theirs in that Sea, but have also endeavour'd to attribute to themselves the Right of giving Leave to fish in them, and to make other Powers pay for that Liberty! How can those who form such groundless Pretensions in the Seas of *Europe*, which belong no more to them than to other Nations, exclaim against the *Spaniards*, when they do nothing in *America*, but refuse to abandon the Seas they possess all the Coasts of, to an arbitrary Navigation, and take just Precautions against Smuggling, and the unlawful Trade carried on in the *Spanish* Dominions, which are the only Design or Object of that Navigation?

' What has been said above is also proved by the fifteenth Article of the Treaty of 1670, which is alledged; for in the Beginning thereof it is said, *That each of the contracting Parties shall have and retain the Lordship of the Seas, Straights, and fresh Waters in America; which belonged to them.*

Ann. 12 Geo. II. *them*. Then all the Seas are not free, and there are some
 1739.

proper Lordships which the Sovereigns ought to enjoy privately or exclusively of all others, and, consequently, we must not understand these Words, *free Navigation*, otherwise than as they are limited at the End of the said Article, viz. *When nothing shall have been committed against the natural Sense and Disposition of the preceding Articles*. And as it is regulated by the eighth Article, that the Subjects of either of the two contracting Kings shall not navigate nor trade in the Dominions possessed by the other Party in the said Western Islands, it follows, that the said free Navigation is limited to the Dominions which belong to one or other of the two Kings, and that the Treaty excludes all Navigation and Trade in the Dominions and Seas of the one to those of the other.

This is the literal, natural and true Sense of these Treaties, and what is therein understood by the Words *free Navigation*. Every time that *England* will get them examined by its Ministers with those of *Spain*, as it was agreed they should be by the Convention, she will find she has no just Motive to complain, nor any Reason to grant Letters of Reprieve, which ought to be grounded on a Refusal of Justice. And since it is *England* who has infringed all the Articles of the Convention, and has herself set an Example of it to the King of *Spain*, who, as has been seen, signed it only under the express Condition, that Regard should be had to his Declaration, and the Protestation therein inserted, the Denial of Justice cannot be imputed to *Spain*, but, in fact, to *England*, who, by its posterior Contraventions above-mentioned, has evaded and annulled the Convention, from which, notwithstanding the Contraventions above expressed, neither of the two Parties can desist, because, as it was drawn up by common Consent, there must be a like Consent to dissolve it.

England had as little Reason to order its Plenipotentiaries to break off the Conferences, as they did by their Memorial of the ninth of *July*; she has not found her Interest in making those great Armaments, in pressing her Neighbours to arm in her Behalf, and soliciting them to be ready at all Events, because the Neighbours of the latter would, by seeing them make unreasonable Preparations, and without any Necessity, regulate themselves by that Example, and would, on their Part, put themselves on their Guard, and the public Tranquility would infallibly suffer by it. In this Case the bad Consequences thereof must be imputed to those who persuade, and those who suffer themselves to be persuaded. The only Aim of *England* is to maintain and preserve by her Arms, and by those of her Neighbours, the unjust usurpations of the Islands and Territories she has invaded in

Breach

Breach of the Treaty of *Utrecht*, and to maintain herself in the clandestine Trade she carries on, to the Prejudice of the lawful Trade of the Allies of *Spain*: Whereas that Crown seeks no other thing than to defend its Honour against the Calumnies whereby it is attack'd, and to maintain the Interest of its Dominions, and those of its Allies, by scrupulously observing Treaties, offending or insulting no Nation, and seeing, but with Concern, the Breach *England* gives to the Peace, and, consequently, to the public Repose.

Ann. 23 Dec. 1739.

1739.

OS. 23. War was proclaimed against *Spain* by the Heralds at Arms as follows:

His Majesty's Declaration of War against the King of *Spain*.

GEORGE R.

Whereas many unjust Seizures have been made, and Depredations carried on for several Years in the *West-Indies*, by *Spanish Guarda Costas*, and other Ships, acting under the Commission of the King of *Spain*, or his Governors, contrary to the Treaties subsisting between us and the Crown of *Spain*, and to the Law of Nations, to the great Prejudice of the lawful Trade and Commerce of our Subjects; and great Cruelties and Barbarities have been exercised on the Persons of divers of our Subjects, whose Vessels have been so seized, and the *British* Colours have been insulted in the most ignominious Manner: And whereas we have caused frequent Complaints to be made to the King of *Spain*, of these violent and unjust Proceedings, but no Satisfaction or Redress has been given for the same, notwithstanding the many Promises made, and Cédulas issued, signed by the said King, or by his Order, for that Purpose: And whereas the Evils above-mentioned have been principally occasioned by an unwarrantable Claim and Pretension, set up on the Part of *Spain*, that the *Guarda Costas*, and other Ships, authorized by the King of *Spain*, may stop, detain, and search the Ships and Vessels of our Subjects navigating in the *American Seas*, contrary to the Liberty of Navigation, to which our Subjects have not only an equal Right with those of the King of *Spain*, by the Law of Nations, but which is moreover expressly acknowledged and declared to belong to them by the most solemn Treaties, and particularly by that concluded in the Year One Thousand Six Hundred and Seventy: And whereas the said groundless Claim and Pretension, and the unjust Practice of stopping, detaining, and searching Ships and Vessels navigating in the

Ann. 13 Geo. III.
1739.

Seas of America, is not only of the most dangerous and destructive Consequence to the lawful Commerce of our Subjects, but also tends to interrupt and obstruct the free Interchange and Correspondence between our Dominions in *Europe*, and our Colonies and Plantations in *America*, and by Means thereof to deprive us and our Subjects of the Benefit of those Colonies and Plantations; a Consideration of the highest Importance to us and our Kingdoms; and a Practice which must affect, in its Consequences, all other Princes and States of *Europe*, possessed of Settlements in the *West-Indies*, or whose Subjects carry on any Trade thither: And whereas, besides the notorious Grounds of Complaint above-mentioned, many other Infractions have been made on the Part of *Spain*, of the several Treaties and Conventions subsisting between us and that Crown, and particularly of that concluded in the Year One Thousand Six Hundred and Sixty Seven, as well by the exorbitant Duties and Impositions laid upon the Trade and Commerce of our Subjects, as by the Breach of ancient and established Privileges, stipulated for them by the said Treaties; for the Redress of which Grievances the strongest Instances have been, from time to time, made by our several Ministers residing within *Spain*, without any Effect: And whereas a Convention for making Reparation to our Subjects for the Losses sustained by them, on Account of the unjust Seizures and Depredations committed by the *Spaniards* in *America*, and in order to prevent for the future all the Grievances and Causes of Complaint therein taken Notice of, and to remove absolutely, and for ever, every thing which might give Occasion thereto, was concluded between us, and the King of *Spain*, on the Fourteenth Day of *January* last, N. S. by which Convention it was stipulated, that a certain Sum of Money should be paid at *London*, within a Term therein specified, as a Balance admitted to be due on the Part of *Spain*, to the Crown and Subjects of *Great Britain*; which Term expired on the Twenty-fifth Day of *May* last, and the Payment of the said Sum was not made according to the Stipulation for that Purpose; by which Means the Convention above-mentioned was manifestly violated and broken by the King of *Spain*, and our Subjects remained without any Satisfaction, or Reparation for the many grievous Losses sustained by them; and the Methods agreed upon by the said Convention, in order to the obtaining future Security for the Trade and Navigation of our Subjects, are, contrary to good Faith, frustrated and defeated; in Consequence of which, we found ourselves obliged, for vindicating the Honour of our Crown, and for procuring Reparation and Satisfaction

tisfaction for our injured Subjects, to order, that general Re-
 prisals should be granted against the said King of *Spain*, his
 Vassals, and Subjects, and their Ships, Goods, and Effects :
 And whereas the Court of *Spain* has been induced to colour
 the open Violation of the Convention aforesaid, by Reasons
 and Pretences, which are void of all Foundation ; and, at
 the same Time ; has not only published an order, signed by
 the said King, for seizing the Ships, Goods, and Effects
 belonging to us, and our Subjects, wherever they shall be
 met with, but has caused Seizures to be actually made of the
 Goods and Effects of our Subjects, residing in his Dominions,
 and has also ordered our said Subjects to depart out of the
Spanish Dominions, within a short, limited Time, contrary
 to the express Stipulations of the Treaties between the two
 Crowns, even in case of a War actually declared : We have
 taken into our Royal and most serious Consideration these In-
 juries, which have been offered to us, and our Subjects, and
 the manifest Violation of the several Treaties subsisting be-
 tween the two Crowns, all which have been in many Partic-
 ulars eluded, or evaded, by the unwarrantable Behaviour
 of the Court of *Spain*, and their Officers, notwithstanding
 the repeated Instances we have given of our Desire to cul-
 tivate a good Understanding with the King of *Spain*, and
 the essential Proofs of our Friendship and Regard for him
 and his Family, which we have demonstrated to all the
 World ; and being fully satisfied, that the Honour of our
 Crown, the Interest of our Subjects, and that Regard which
 ought to be had to the most solemn Treaties, call upon us
 to make use of the Power which God has given us, for
 vindicating our undoubted Rights, and securing to our loving
 Subjects the Privileges of Navigation and Commerce to
 which they are justly entitled ; We therefore, relying on the
 Help of Almighty God, who knows the Uprightness of our
 Intentions, have thought fit to declare, and do hereby declare
 War against the said King of *Spain* ; and we will, in pursuance
 of such Declaration, vigorously prosecute the said War, being
 assured of the ready Concurrence and Assistance of all our
 loving Subjects in so just a Cause, wherein the Honour of
 our Crown, the Maintenance of our solemn Treaties, and
 the Trade and Navigation of our Subjects (which are so es-
 sential to the Welfare and Prosperity of this Nation, and
 which we are determined, at all Times, with our utmost
 Power to preserve and support) are so greatly concerned :
 And we do hereby will and require our Generals and Com-
 manders of our Forces, our Commissioners for executing the
 Office of High Admiral of *Great Britain*, our Lieutenants
 of our several Counties, Governors of our Forts and Gar-
 risons,

Ann. 23 Geo. II.

1739.

Ann. 13 Geo. II.
1739.

rifons, and all other Officers and Soldiers under them, by Sea and Land, to do, and execute all Acts of Hostility in the Prosecution of this War against the said King of *Spain*, his Vassals, and Subjects, and to oppose their Attempts; and we do hereby command, as well our own Subjects, as advertise all other Persons, of what Nation soever, not to transport, or carry any Soldiers, Arms, Powder, Ammunition, or other contraband Goods, to any of the Territories, Lands, Plantations, or Countries of the said King of *Spain*; declaring, that whatsoever Ship or Vessel shall be met withal, transporting; or carrying any Soldiers, Arms, Powder, Ammunition, or other contraband Goods, to any of the Territories, Lands, Plantations, or Countries of the said King of *Spain*, the same being taken, shall be condemned as good and lawful Prize.

Given at our Court at *Kenfington* the Nineteenth Day of *October*, 1739. in the Thirteenth Year of our Reign.

God save the KING.

The SIXTH SESSION of the Second Parliament of King *George* the Second, was opened *November* 15, 1739. with a Gracious Speech from the Throne to both Houses: Which see in *Chandler's History An. 13. Geo. II. 1739. p. 88.* and his Majesty being withdrawn, the Lord *Hinton* rose up and spoke to the following Effect.

Lord Hinton.

‘ My Lords, as you have heard his Majesty’s most gracious Speech from the Throne, and as it is our Duty to return some sort of Answer by way of an Address, I should not think myself under a Necessity to say any thing in Favour of the Motion which I am to make, in pursuance of a Custom so reasonable and so long established, if it were not that, upon so extraordinary and so important an Occasion, I think we ought to express our Duty and Affection to our Sovereign, in Terms more explicit than usual. For this Reason, I must beg leave to say something with Regard to the Measures his Majesty has pursued, and. with Regard to the Situation in which we are at present.

‘ As to the Measures pursued by his Majesty, my Lords, it is well known, that he has in every Thing followed the Advice given him by his Parliament. According to that Advice, he endeavoured as much as possible to obtain Justice and Satisfaction from *Spain* by peaceable Means. He even avoided

avoided putting the Nation to the Expence of warlike Preparations, till he was advised by his Parliament to insist peremptorily upon immediate Satisfaction for past Injuries, and absolute Security against future; and when the *Spaniards* saw that his Majesty, by the Advice of his Parliament, not only threaten'd, but was preparing to make the just Resentment of this Nation fall heavy upon them, they then thought fit to procrastinate at least the Effects of that Resentment, by agreeing to reasonable Terms.

Ann. 13 Geo. II.

1739.

To a trading Nation, my Lords, especially a Nation like this, whose Interest it is to remain satisfied with its own Possessions, without attempting to make Conquests upon its Neighbours, a State of War must always be dangerous and inconvenient, and can never be attended with any great Advantage. This his Majesty was fully sensible of, and therefore he ratified the Convention agreed to by *Spain*. This the Parliament was fully sensible of, and therefore that Convention was last Session approved of by a Majority in each House of Parliament, tho' both his Majesty and his Parliament saw that it was not so satisfactory as might have been expected, and that as to most of the Articles in Dispute, it was rather a Preliminary than a definitive Treaty; but by a Fatality, happy, I hope, for this Nation, the *Spaniards* refused to comply with the Terms they so solemnly agreed to by that Convention, tho' those Terms were the most moderate this Nation could accept of, and more moderate by far than the *Spaniards* had Reason to believe we would accept of. These Terms, I say, without the least Failure on our Part, the *Spaniards* thought fit not to comply with, and thereby they rendered it necessary for his Majesty to begin Hostilities against them, in pursuance of that Advice which had been given him by his Parliament. This he accordingly did as soon as he could find an Opportunity, and when he found, that the gentle Method of Reprisals would not be sufficient for bringing them to Reason, he declared War against them in Form.

Thus, my Lords, his Majesty has, in every Step of his past Conduct, pursued that Advice which was given him by his Parliament. From hence we may presume, he will follow the same Advice in every Step of his future Conduct; and from hence we may promise ourselves Success in all our public Undertakings; for this Nation has always been happy and successful, when our Sovereign followed the Advice of his Parliament. In all such Cases, the Parliament unanimously agreed to support their Sovereign, in the Pursuit of those Measures which they themselves had advised: It was their Duty to do so; and the People heartily concurred in rendering

Ann. 13 Geo. II. rendering every Step successful. This has been the happy State of this Nation in some former Reigns, and as none of our Kings ever shewed a greater Regard for the Advice of Parliament, than his present Majesty has always done, I hope that, in Duty and Affection to their Sovereign, the present Generation will take Care not to fall short of their Ancestors in any former Reign.

1739.

‘ His Majesty, my Lords, by your Advice, is now engaged in an open and declared War. It is one of the most just and necessary Wars this Nation was ever engaged in; for the *Spaniards* have not only heaped many Injuries upon us, but have broke thro’ the most solemn Engagements that were ever made by any Nation. What their Reason was for treating us in this contemptuous Manner, his Majesty has told us in his Speech from the Throne, and I am convinced it was the only true Reason. They saw there were great Animosities and Divisions amongst us, and from these they hoped to reap some Advantage, in case of a War; or perhaps they imagined, our Government would not, on Account of these Animosities and Divisions, dare to vindicate the Honour, or assert the Rights of the Nation. If their Hopes of Impunity were founded upon the latter of these Expectations, they have already found themselves disappointed; and if upon the former, I hope, they will at last find themselves equally mistaken; I hope the Unanimity that shall this Day be shewn, in agreeing to what I am to propose, will convince them, that if there were any Divisions amongst us, they are now at an End; and that therefore they can from thence expect no Advantage in the Prosecution of the War.

‘ This, my Lords, may probably put a speedy, as well as honourable End to the War, which is, I am sure, what every one of your Lordships most heartily wishes to see. His Majesty has already taken all possible Care, by providing for our Defence at home, to prevent its being in the Power of our Enemies to hurt us; and as soon as the Season will permit, we may attack them with such a Force, as they cannot, in all human Probability, resist. They can, therefore, have no Hopes in prosecuting, no more than they had in provoking the War, but such as are founded upon Divisions amongst ourselves. If it had not been for such Hopes, I am fully convinced they would never have provoked us to War; and *if* by a cordial Union amongst ourselves, we should put an End to these Hopes, I am as fully convinced, they will soon begin to think of preventing a farther Prosecution by a speedy Submission.

‘ For this Reason, my Lords, we ought this Day, I think, to be more full and explicit in our Expressions of Duty and Affection

Affection to his Majesty, than is usual upon such Occasions ; Ann. 23 Geo. III.

1739.

and, for the same Reason, we ought to be unanimous in those Expressions of Duty and Affection that are necessary upon this Occasion. This is what I most heartily wish for, and therefore I have taken all possible Care to avoid inserting any thing in my Proposition, that may occasion the least Objection or Difficulty. If there is any thing in it that, to some Lords, may appear a little extraordinary, I hope I have given sufficient Reasons for it, therefore shall add no more, but conclude with moving your Lordships, 'That an humble Address be presented to his Majesty, to return Thanks for his most gracious Speech from the Throne. — To declare, that the great Regard, which his Majesty hath expressed for the Sense of both Houses of Parliament, in his Proceedings with the Court of *Spain*, is a Continuance of that Goodness and Concern for the true Interest of his People, which we have so often experienced ; and that his Majesty's Desire to have the Advice and Assistance of his Parliament, as early as possible, in this important Conjunction, is a fresh Proof of his Confidence in his faithful Subjects. — That the Justice and Necessity of the War, which his Majesty has been pleased to declare against *Spain*, must be as demonstrable to all the World, as the violent and intolerable Methods practised by that Nation, to interrupt and distress the Commerce and Navigation of these Kingdoms, are notorious ; and, that it is the highest Aggravation of this offensive and inexcusable Conduct, that it has been obstinately pursued, in Breach of the most solemn Engagements, and in Defiance of the highest Obligations of Friendship and good Offices : But, that since *Great-Britain* has been thus unavoidably called forth to Arms, we esteem it our peculiar Felicity, that we have a Prince upon the Throne, who, with paternal Tenderness, joins in the just Resentments of an injured Nation ; and whose Magnanimity and Steadiness are equal to the glorious Cause in which he is engaged. — That on this Occasion, the unfeigned Tender of our Lives and Fortunes is no more than is due to his Majesty, and our Country ; and that we do, from the Bottom of our Hearts, give his Majesty the strongest Assurances that we will zealously concur in all such Measures, as may forward his Preparations, and enable him to carry on the War with that Spirit and Vigour, which truly become the *British* Name. — That his Majesty's Goodness in acquainting us from the Throne, that he has augmented his Forces by Sea and Land, pursuant to the Power given him by Parliament, with all the Moderation that was consistent with those desirable Ends, which he, in his royal Wisdom, has pointed out to us, is an Instance of his Majesty's

gracious

Ann. 13 Geo. II.

1739.

gracious Disposition to avoid bringing any unnecessary Burdens upon his People : And, that tho' we cannot flatter ourselves, that a State of War will not be attended with great Expences, and some Inconveniencies ; yet, when it is undertaken, not to gratify the Views of restless Ambition, but to assert and maintain the Honour and just Rights of his Majesty's Crown and Kingdoms, we doubt not, but those powerful Motives will induce all his Subjects to undergo with Cheerfulness, whatever is necessary in the Prosecution of it. — That it gives us inexpressible Concern, that there should be any Occasion for his Majesty to repeat his gracious Admonitions against those Heats and Animositities, which have been fomented throughout the Kingdom : That as we cannot but most seriously lament the unhappy Divisions thereby occasioned, so nothing shall be wanting on our Part to heal them, by promoting that good Harmony and Unanimity, which are so necessary at this Juncture : And that we trust in God, that any Hopes or Views formed by our Enemies upon such Circumstances, will be found utterly vain and groundless ; since all his Majesty's Subjects must be convinced, that the Security of our Religion and Liberties, and the Safety and Prosperity of these Kingdoms, do entirely depend on the Preservation of his sacred Person and Government, and of the Protestant Succession in his royal House. — That in this common Cause, Interest, as well as Duty, will make us unite ; and that we do with the greatest Zeal and Firmness assure his Majesty, that we are determined, at the Hazard of all that is dear to us, to support it against all his Enemies, both at home and abroad ; imploring the divine Providence to give Success to his Arms, and make them the happy Means of procuring a safe and honourable Peace.'

This Motion being seconded by the Lord Viscount *Falconsberg*, Lord *Carteret* stood up, and spoke to the following Effect.

Lord *Carteret*,

' My Lords, as the Motion the noble Lord has been pleased to make is pretty long, I cannot pretend to remember exactly the Words, and as, upon hearing it read, I observed some Words which, to me, seemed not quite so right, I must desire the Favour to have the Motion in my Hand. (The Motion being delivered to him, after perusing it, he went on thus) My Lords, as this is one of the greatest, one of the most important Conjunctions that ever happened to this Nation, I desire and wish as heartily as the noble Lord who made you this Motion, or any Lord can do, that we may be unanimous in the Resolution we come to upon this Occasion. The greatest Part of the noble Lord's Motion,

I highly approve of. There are only a few Words towards the latter End, which I think might have been left out; and as they are, in my Opinion, quite unnecessary, I hope the noble Lord will, for the Sake of that Unanimity he so much desires, agree to have them left out of his Motion. The Words I mean are, That it gives us inexpressible Concern, with the following, which make the last Paragraph but one, of the noble Lord's Motion. These Words, I humbly think, my Lords, are quite unnecessary; and, as they may give Offence to some Lords, and may occasion an Opposition to a Resolution, which would otherwise be unanimously agreed to, I hope the noble Lord will not insist upon their standing a Part of his Motion. But I offer this as my Opinion only, I do not make it my Motion, because I am resolved to wait till I hear what may be said by other Lords upon this Head.

' My Lords, we have now weathered the Point of Negotiation, and are fairly launched out in the open Sea of a declared War. God grant we may meet with a prosperous Gale. We have human Probability of our Side, and as we have Justice likewise of our Side, we have reason to expect the Favour of Providence; therefore, I have no doubt of a successful Voyage, if we take care to put ourselves under the Direction of good Pilots. Ministers and Negotiators will not, I hope, I am sure they ought not now, to be our Advisers. We have good Generals, we have brave and experienced Admirals: We must now chuse them for our Pilots: We must take their Advice; and, if their Advice be taken, and vigorously pursued, I shall not hereafter find fault with Events, on account of any cross Accidents we may meet with in the Prosecution of the War. Providence only can direct Events, but Men can plan; and if the Plan be good, if the Scheme be well laid, no Man ought to find fault with the Event. But, if the forming of our Schemes for the Prosecution of the War be left to ignorant and pusillanimous Counsellors, we cannot expect they should be right; and a wrong Scheme may be found fault with, even tho' the Event should, by an extraordinary Interposition of Providence, prove successful.

' In the Prosecution of the present War, I hope every Man will, in his proper Sphere, contribute as much as he can towards the Success of his Country. My Lords, I am persuaded every Man will; because no War was ever entered into with greater Unanimity amongst all Ranks and Degrees of Men. We cannot, therefore, justly say any Thing, upon this Occasion, of Animosities and Divisions. If there were ever any domestic Animosities or Divisions amongst us,

Ann. 13 Geo. II. they were occasioned by our tamely submitting to so many foreign Insults. These his Majesty's Declaration of War has put an End to, and nothing can revive them but a Slackness in the Prosecution. For this Reason I wish they had not been mentioned upon this Occasion. I'm afraid it is ominous : It looks as if some People were suspicious that the War will not be pushed in such a vigorous Manner as a People greatly injured, and justly enraged, may have Reason to expect. If this be the Case, they have good Reason to warn us against Animosities and Divisions ; but their Warnings will be in vain. Our former Divisions will revive, and our Animosities may increase to such a Degree, as to endanger the domestic Tranquillity of the Nation, unless they be appeased by a Sacrifice of those who were the Cause of their being revived.

For this Reason, I say, my Lords, I wish I had heard nothing of Animosities or Divisions upon this Occasion ; and I am surprized how any such Thing could creep into his Majesty's Speech. In a free Country, such as this, Lords or Gentlemen may differ in their Opinions about public Measures ; and as the Interest of their Country is concerned, they may, they ought to support their Opinions with Fervency and Zeal : But that Difference in Opinion is not to be called a Division ; nor is that Fervency to be called Animosity. Something of our Divisions and Animosities was, I remember, mentioned in a Piece that was handed about as the Manifesto of *Spain*. This I was no way surprized at ; because in *Spain* they can have no Difference in Opinion about public Measures ; at least, if they have, they dare as little declare it, as they dare declare their Difference of Opinion about Matters of Faith or Religion ; therefore, they might, probably mistake the one for the other, by supposing that to be a Division amongst us, which was really nothing but a Difference in Opinion. But, I hope, his Majesty's Ministers are better acquainted with the Constitution of their Country, than to fall into any such Mistake ; and they should particularly, upon this Occasion, have avoided saying any thing about Divisions or Animosities, because it will confirm the *Spaniards* in the Mistake they are in ; and may, as the noble Lord apprehends, encourage them to continue the War, in hopes that they may be able to reap some Advantage from our Divisions.

From hence your Lordships must see, that no such Thing ought to have been mentioned in his Majesty's Speech from the Throne ; and much less, I am sure, ought it to be mentioned in our Address. If his Majesty's Ministers have fallen into a Mistake, and a Mistake too that may be attended with such

such a bad Consequence, as that of prolonging the War, Ann. 13 Geo. II.
1739.
shall we, in our Address, out of pure Complaisance, echo that Mistake back to the Throne, and thereby render insupportable the bad Consequence which we might otherwise have prevented? Shall we, my Lords, be so uncharitable as to think, and much less to say, that all those who differ from us in Opinion about public Measures, are Promoters of Divisions, and Fomenters of Heats and Animosities? It is impossible that any Lord should expect an unanimous Concurrence in such Expressions. They are Expressions that can properly be made use of by none but the arbitrary Ministers of an absolute Monarch; and therefore, I was not a little surprized at seeing any Thing like them in his Majesty's Speech from the Throne; but I was much more surprized, to find the Obstinacy of the *Spaniards* imputed to the Heats and Animosities that have been fomented amongst us. It is a Maxim in this House, to look upon his Majesty's Speech from the Throne, as the Speech of his Ministers; and nothing can contribute more to shew the Justness of this Maxim, than that of imputing the Obstinacy of the *Spaniards* to any Heats or Animosities that have been fomented amongst us.

Almost every Man in the Nation, I believe, is now convinced, at least every Man that thinks at all about public Affairs, must be convinced, that the strange Obstinacy of the *Spaniards* has all along proceeded from the known Passivity of our Ministers. We submitted tamely to the first Insult they put upon us, that encouraged them to put a Second: We bore the second with Patience, that encouraged them to put a Third. Upon the Third we modestly complained, and humbly prayed to negotiate; that encouraged them to put a Fourth: And thus we continued submitting and negotiating, and they continued plundering and insulting, till, at last, I really believe, they began to think that no sort of Treatment could provoke us to commence Hostilities, or declare War against them. Thus, by the tame and submissive Temper of our Ministers, the *Spaniards* have been encouraged to hold such a Conduct towards us, as to make it necessary, even for our Ministers, to have Recourse to Arms; and now those very Ministers, in order to remove the Load off of their own Shoulders, come and tell us, that those who complained of their submissive Conduct, and often told them what it would end in, were Fomenters of Heats and Animosities; and that those Heats and Animosities were the chief Cause of that Obstinacy which *Spain* has shewn in her Conduct towards us.

I shall readily grant, my Lords, that the just Complaints of our plundered Merchants, and the Regard shewn to those Complaints by the whole Nation, excepting a very few Persons,

Ann. 13 Geo. II.

1739.

were the immediate Cause of the War, because they forced our Ministers to alter their Conduct ; but, I hope, neither the Complaints of the Merchants, nor the Regard shewn to them by the People, are to be called Heats and Animosities ; and call them by what Names you will, they were not the Cause, but the Effect of that Obstinacy in *Spain*, of which the Tameness of our Ministers was the Cause ; consequently, it is in this Tameness alone we are to seek for the original Cause of the present War ; for if our Ministers had resented, as they ought, the first Injury that was done to our Merchants by the *Spaniards*, it would have prevented a second ; and, for the first, we might by Reprisals, if not by fair Means, have obtained Redress, without coming to an open Rupture : Or if we had then come to an open Rupture, we should have prevented a very great Prejudice the Nation has suffered by an Interruption of its Trade, and many considerable Losses our Merchants have sustain'd by the plundering and seizing their Ships ; and I believe no Man will say, we had not then as favourable an Opportunity for engaging in a War against *Spain*, as we have at present.

‘ Having thus, my Lords, shewn what it really was, that encouraged the *Spaniards* to provoke us to War, I must observe, that if they still continue obstinate, it will, I believe, be owing to the same Cause. They are sensible of the Superiority of our naval Force, which, at the same time that it enables us to hurt them in the most sensible Part, may prevent their being able to hurt us in any ; and they can have no hopes to reap any Advantage from those Divisions and Animosities, which, if there were any amongst us, his Majesty has put a final End to, by declaring War against them. Their Hopes, therefore, can depend upon nothing but upon our not prosecuting the War with Wisdom and Vigour. They may, perhaps, hope, that the same perplex'd and timorous Spirits will hereafter prevail in our warlike Measures, that formerly prevailed in our peaceful Negotiations ; and if they continue obstinate in prosecuting the War, I shall conclude that they entertain some such Hopes ; but I trust in God they'll find themselves disappointed. Our Generals and our Admirals are Men of a different Cast from what they have experienced in our Ministers and Negotiators ; and if the Conduct of the War be committed to the Care of our Generals and Admirals, as I hope it will, the *Spaniards* will soon find they have nothing to trust to, but our Mercy and Forgiveness.

‘ I shall join with the noble Lord in supposing, that every one of your Lordships wishes to see a speedy as well as honourable End to the War. It is very much the Business of this Nation to make the War as short as possible ; and the
most

most effectual Method for rendering it short, is to make it Ann. 12 Geo. II.
 violent. War is a sort of Storm, and like other Storms, the 1739.
 more violent it is, the sooner it will be over. If we push it
 vigorously, and in the right Place, it cannot be of long
 Continuance. For this Purpose the *West-Indies* is the only
 proper Place. We may plague and harraßs the Enemy by
 making Incurßions upon the Continent of *Old Spain*, and by
 burning the Ships in their Harbours, as often as we can get
 an Opportunity; but *America* is the Place where we ought
 to direct our chief Force. There the *Spaniards* cannot resist
 us, and there we may do more than make Incurßions. We
 may there take and hold such Places, as we think may be
 either convenient or useful. It is what *Spain* cannot hinder:
 It is what *Europe* cannot prevent; and by holding the Places
 we take, we add to our own Strength, at the same Time that
 we diminish the Strength of our Enemy.

‘ The late King *William I* shall always, my Lords, have
 a great Regard for. His Actions were right: Even his
 Thoughts were right. He knew the most proper Way for
 this Nation to push a War against *Spain*. He knew that
 the *West-Indies* was the Place where we could most injure
 the Enemy, and benefit ourselves. For this Reason, in the
 Treaty of Grand Alliance concluded between the *Emperor*,
England, and *Holland*, in the Year 1701, he took care, by
 the 6th Article of that Treaty, to stipulate, that it should
 be lawful for him, and the Lords the *States General*, by
 common Advice, and for the Benefit and Enlargement of the
 Navigation and Commerce of their Subjects, to seize, by
 their Forces, what Lands and Cities they could, belonging
 to the *Spanish* Dominions in the *Indies*; and that whatsoever
 they should so take, should be their own. That great and
 wise Prince did not live to prosecute his Design; but this Ar-
 ticle shews what were his Thoughts, and even the Thoughts
 of such a Man may be of great Use to his Country. After
 his Death, we had not such an Influence upon the Councils
 of the *States General*, as we had before. They began to
 think it was more for the Interest of the Confederacy to
 make Conquests in *Europe* than to make Conquests in the
Indies, therefore they refused to join with us in any Under-
 taking against the *Spanish* Dominions in the *Indies*, and we
 could not engage in any such without their Concurrence. The
 War, ’tis true, could hardly be more glorious and success-
 ful than it was; but it would probably have been of shorter
 Duration, and would certainly have been more advantageous
 for this Nation, if the Scheme formed by King *William* had
 been followed in every Part.

Ann. 13 Geo. II.

1739.

‘ If we have now, my Lords, the Misfortune of having no Allies, we have, at least, this Advantage resulting from it, That in our present War against *Spain*, we may follow the Plan laid down by that glorious Prince without any Restraining, and without asking the Advice of any Power in *Europe*; therefore, I hope this is the Plan now resolved on, for our future Operations. I hope they will be chiefly directed towards seizing such Lands and Cities belonging to the *Spanish* Dominions in the *Indies*, as may contribute towards the Benefit and Enlargement of our Navigation and Commerce; or at least, such as are necessary for securing the Freedom of that Navigation and Commerce, which we have now a Right to in those Parts of the World. We have met with such Provocations from *Spain*, as must render this War just on our Part, in the Eyes of every impartial Judge; and, in the Prosecution of a just War, no Power in *Europe* has a Right, few of them can have an Inclination to direct us, or to restrain us from making such Conquests as may be sufficient for answering the Charge of the War, as well as such as may be necessary for preventing our meeting with any Injustice for the future.

‘ The *Spaniards*, my Lords, have for many Years behaved towards us, not only in the most unjust, but in the most cruel and barbarous manner. They have not only in the most contemptuous manner insulted the Crown, but they have in the most barbarous manner injured the Subjects of these Kingdoms; and that, at a Time when they were professing the greatest Friendship towards us, and receiving many Acts of Friendship from us. They have for several Years been dealing with us in the most treacherous manner: But I shall avoid giving hard Names. I would not give hard Words even to the *Spaniards*; but I would, and I hope we shall, give them very hard Blows; and that, upon the most sensible Part. Every one knows, my Lords, where that is. It is in *America*, where we can make them feel most sensibly the Weight of our Resentment: It is by Conquests in that Part of the World, where we can most effectually secure or enlarge our Commerce and Navigation; and it is there, where they can least resist us. If they have none to assist them, we must, by attacking them vigorously in that Part of the World, bring the War to a speedy Issue, and to an Issue that will be advantageous as well as glorious to this Nation.

‘ What then have we to fear, my Lords? From a War with the *Spaniards* we have nothing to fear; but from a Peace with them, unless it be such a one as we shall prescribe, we have a great deal to fear. Former Experience has shewn, that we have nothing to fear from the Force of their

Arms

Arms in Time of War ; but late Experience has shewn, Ann. 13 Geo. II.
1739
that we have something to fear from their Treachery in Time of Peace. But some Persons amongst us may, perhaps, be frightened, lest the *Spaniards* should be assisted by some of the other Powers of *Europe*. My Lords, they can be assisted by none but the *French* ; and *France*, in its present Circumstance, and according to that which seems to be its present Scheme of Politics, will, I believe, be very loth to engage in a War with this Nation. The great Age of him who now so worthily presides over the Councils of that Kingdom, must make him desire to end his Days in Peace ; and therefore it is not probable that he will engage in a dangerous War, for supporting the romantic and unjust Pretensions of the Court of *Spain* ; Pretensions which may one Day prove as troublesome and prejudicial to *France*, as they have lately proved to *England*. Besides, the *French* seem now to be more intent upon extending their Trade, than upon extending their Dominions ; and, in a War with this Nation, their Trade must suffer in every Branch : Nay, if we exert our seves as we ought, it must be entirely suspended.

But the Difference, my Lords, between this Nation and *France* is, that our Trade is our chief Support, and therefore we must sacrifice every other View to the Preservation of our Trade : Whereas the chief Support of *France* does not depend upon its Trade, and for this Reason the *French* may, on account of other Views, make a Sacrifice of their Trade for a Time. But suppose they should resolve to make a Sacrifice of their own Trade, in order to distress the Trade of this Nation, by joining openly with *Spain* against us, what can they do ? They must fight us by Sea, or not at all : They can attack us no other Way ; and there we are greatly superior. The Navies of *France* and *Spain* joined together, are no Match for the Navy of *Great Britain* ; and, if we should destroy the first Squadron they fit out, we might ruin the Dominions of both in the *West-Indies*, before they could be able to fit out another. To talk of their invading us here at Home, as long as we are united amongst our selves, is a mere Bug-bear. We have already properly provided against it, by augmenting our Land-Forces, and by covering the Sea with our Ships of War. The Sea, my Lords, when so covered, is our Defence and our Safeguard ; when not so covered, it is our Prison. His Majesty's Declaration of War against *Spain* has healed all our Divisions. There is now no Animosity in the Kingdom, but a most general one against the *Spaniards* ; and an Invasion from *France*, upon the present Occasion, would unite us more firmly than ever. They cannot therefore attempt to invade us, without sending at once such an Army

Ann. 13 Geo. II.

1739.

Army as would be sufficient for conquering the Kingdom. For this Purpose, they must send a very great Army of Horse as well as Foot; and the providing of Ships for transporting such an Army, would take up so much Time, and make such a Noise abroad, that we must hear of it; in which Case, we could easily send a Squadron superior to any they can fit out, to burn their Ships in the Harbour, or to intercept them, if they dared put to Sea.

‘ In short, my Lords, *France*, by joining in the War, must ruin her own Trade, and may distress ours a little, but she cannot otherwise hurt us; and if we are not obliged to maintain great Armies upon the Continent of *Europe*, as we were in the last War, we may send such a naval Force to the *West-Indies*, as both *France* and *Spain* joined together cannot resist; the Consequence of which would be, the Loss of all the Dominions belonging to both these Nations in that Part of the World. Therefore, if the *French* should resolve to join with *Spain* in the present War, they can do it no Way with any Effect against us, but by endeavouring to overturn the Balance of Power in *Europe*, and for that Purpose raising a new War upon the Continent, which would of course make our former Allies sue to us, for renewing the ancient Confederacy against *France* and *Spain*.

‘ Our former Allies, nay, all the Powers of *Europe*, my Lords, are already surprized at our Declaration of War. If we pursue it with Wisdom and Vigour, it must, in all human Probability, be successful; and this will make the Powers of *Europe* begin to respect us, as much as they have lately despised us. His present Majesty may be made the greatest and most glorious Prince that ever sat upon the *British* Throne; but if our warlike Measures should still be interrupted, or rendered languid, by that Spirit of Negotiation which has so long prevailed, the Opportunity will soon be lost; and if it should, God forgive them that shall be the Cause of so much Reproach to their Sovereign, and of such irretrievable Hurt and Ignominy to their Country.

‘ In the present War, my Lords, we have as yet no Occasion for any Allies: I do not know that we shall; but if we should, we may still find great and powerful Allies in *Europe*. The Power of the House of *Austria* is not yet become so despicable, as our Advocates for Peace have endeavoured to represent; and I hope no Man in *Britain* is now afraid of the overgrown Power of that House. It was never in this Kingdom a national Jealousy, nor could it ever be made so, notwithstanding the great Pains that were taken, a few Years since, to inculcate and propagate such a Jealousy through all Parts of his Majesty's Dominions. The

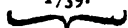
Emperor,

Emperor, therefore, may still be a most useful Ally to us, and certainly would be so, if we were in any real Danger; because we shall always be a most useful Ally to him, when the Balance of Power is in Danger, at least, I am sure, we ought to be so. The King of *Prussia* likewise is a Power whose Alliance we may always depend on, if we follow right Measures; and another Power, which is now as formidable as any in *Europe*, will always, I believe, be fond of cultivating a close Alliance and Friendship with this Nation. Even the *Dutch*, I believe, might easily be brought in to pursue more vigorous Measures than they have done of late Years. But these Things are not to be done by Negotiation. They are to be done by vigorous Measures on our Side, especially in those Affairs that particularly regard ourselves. If we shew the Powers of *Europe*, that we dare resent our Wrongs, and vindicate our Rights, and that we can do it in a wise and vigorous Manner: If we shew them, that we can stand upon our own Legs, they will apply to us; they will court our Favour, because they will from thence see, we can give them Assistance. A Nation, like a private Man, must in vain expect Assistance from its Neighbours, if they believe it cannot help itself. Notwithstanding the great Pains taken by some of our late Dealers in Negotiation, to make the World, as well as ourselves, believe, that we are in a weak and helpless Condition; I hope we shall now shew, that we are still able to make the proudest Nation in *Europe* repent her having dared to insult us.

The Hypothesis of our Politics is now, I hope, quite altered. We are now, my Lords, I hope, upon a right Hypothesis; and if that Hypothesis be vigorously and steadily pursued, no Matter by whom; for it is not Men, but the Hypothesis of our late Conduct, that I have found Fault with. If the same Men should alter the Course of their Measures: If they should lay down a right Hypothesis, and follow that Hypothesis in a proper Manner, I shall be as ready to approve, as ever I was to blame their Conduct. But if they have a Mind to alter their Conduct in Time to come, they will forget, they must even approve of the Opposition that was made to their Conduct in Time past; and therefore, they will be far from presuming to say, that the Authors of that Opposition were Fomenters of Heats and Animosities, or that there is now subsisting any Division in the Nation. There is really no such Thing now amongst us, nor can there be any such Thing in the Course of the present War, if it be carried on with a Design to revenge us, and not with a Design only to amuse us. Therefore, I was surprized to hear any Thing of Divisions and Animosities

Ann. 13 Geo. II.

1739.



mentioned in his Majesty's Speech, but I am much more surprized to hear our Divisions and Animosities made a Part of a Motion in this House, and that by a noble Lord, who at the same Time says, he has taken all possible Care to avoid inserting in his Motion, any Thing that may occasion the least Objection or Difficulty, and that he most heartily wishes we should be unanimous upon the present Occasion.

‘ But suppose, my Lords there had been any real Divisions and Animosities amongst us: Suppose these Divisions and Animosities were still subsisting; would it be right in us to publish it to the World? Our Enemies are apt enough to say we are a factious and divided People: We find they do say so; and they will certainly endeavour to propagate that Opinion among those who incline to be our Friends. Shall we then, by an Address, which we know will be published in all the foreign *Gazettes*, give the World good Ground to believe so? Will not this encourage those who are already our declared Enemies to prolong the War? Will it not encourage those who are as yet our secret Enemies to declare openly against us? Will it not discourage our Friends from giving us any Assistance? If we should come to stand in Need of any Alliance, there is nothing, in my Opinion, can be more effectually done for preventing its being in our Power to procure one; therefore, I hope, the noble Lord will agree to leave out of his Motion every Expression that may seem to insinuate, as if there were Divisions and Animosities still subsisting amongst us, especially since those Expressions must be look'd on as a Reflection upon Lords who have, upon former Occasions, happened to differ from him in Opinion, and consequently must occasion an Opposition to a Motion which would otherwise be unanimously agreed to.

‘ These, my Lords, are my Thoughts upon the present Occasion. It was incumbent upon me to offer them to your Lordships; but I shall make no Motion, till I see how other Lords think, with Regard to the Motion now under our Consideration.

The Duke of Newcastle.

The Duke of
Newcastle.

‘ My Lords, I shall be heartily glad to see the Resolution we come to upon this Occasion unanimously agreed to; but I would not have us, even for the Sake of Unanimity, be guilty of any Sort of Disrespect to his Majesty. As he has mentioned, and, I think, properly and seasonably mentioned Divisions, Heats, and Animosities, we ought, in Respect to him, to make some Sort of Answer to that Part of his Speech;

Speech ; and, in my Opinion, we cannot make a more proper Answer, than what the noble Lord has been pleased to propose. That there have been Divisions amongst us, and that those Divisions have been fomented, and even carried the Length of Heats and Animosities, is what, I think, no Man can deny. I beg Pardon, my Lords, I do not mean in this House, or among your Lordships. Your Lordships may differ in Opinion, and you may support your respective Opinions with Fervency and Zeal. I know you always will, because you have the Good of your Country sincerely at Heart. But your Lordships support your Opinions with Temper and Discretion, and never allow a Difference in Opinion, to transport you into any Heat or Animosity.

This, my Lords, has been, this, I hope, will always be, the laudable Behaviour of your Lordships both within Doors and without ; but this cannot be said of the rest of the Nation. Their Differences in Opinion may sometimes flow from a Difference that has arisen in this House : They may follow your Lordships in their Differences, but few of them know how to imitate you in Temper and Moderation. This is the Cause that Differences in Opinion, about Matters of a public Nature, often create Divisions among the People without Doors ; and those who are disaffected to his Majesty's Person and Government, always endeavour to nurse these Divisions up into Heats and Animosities, and too often succeed in their Attempts. Whatever is said, therefore, in his Majesty's Speech from the Throne, whatever may be said in your Address, about Divisions, Heats or Animosities, can relate only to the People without Doors : It can no Way relate to your Lordships, and consequently no Lord in this House can have Reason to think himself reflected on by any such Expression, either in his Majesty's Speech, or in our Address.

But suppose, my Lords, there never had been, nor were now, any such Thing as Divisions, Heats or Animosities in the Nation, yet, as such Misfortunes are too frequent in every free Country, it was right in his Majesty to caution us against them. It was a most seasonable Advice upon the breaking out of a War, which may be heavy, dangerous, and tedious, tho' it has at present the Appearance of not being so. The noble Lord that spoke last, expressed a great Regard for the late King *William*. I shall readily join with him in testifying my Esteem for that great Prince ; and therefore, I must approve of his Majesty's giving us a Caution at this Juncture against Heats and Animosities, because King *William* did the same upon a like Occasion. That Prince, in his last Speech to his Parliament, when War against *France* and *Spain*

Ann. 13 Geo. II.

1739.

was resolved on, tho' not then declared, recommended it particularly to his Parliament to avoid all manner of Disputes and Differences, and to lay aside those unhappy, fatal Animosities, which divided and weakened this Nation. For this Reason, if the Example of King *William* can be of any Weight, and I must think it ought, we must approve of the Advice his Majesty has given us upon this Occasion; and if we approve of it, we ought to say something in return.

"In this, my Lords, his Majesty has done no more than follow the Example of King *William*; and as he equals that Prince in many other Virtues, so he equals him in a true Regard for the Glory and Happiness of his Kingdoms, which, I am convinced, will be manifested in a prudent and vigorous Prosecution of the present War. King *William*, in my Opinion, and, I believe, in the Opinion of every Man that hears me, judged right when he supposed that the *Indies* was the proper Place for carrying on a War against *Spain*. His present Majesty we may suppose, from what he says in his Speech, to be of the same Opinion. He has told us, that he has augmented his Forces by Sea and Land, as the necessary Means of distressing and annoying our Enemies in the most sensible Parts, by which he certainly means the *Indies*; and, I believe, no Man supposes that we ought to exhaust our Strength in attacking any of their Dominions in *Europe*. We may therefore suppose, that his Majesty will certainly push the War against *Spain* with the greatest Vigour in the *Indies*; and if he had Occasion for it, he would as certainly make Stipulations in every Alliance he enters into, for our keeping Possession of the Conquests we may make in that Part of the World. It was necessary for King *William* to make such a Stipulation in the Alliance he at that time concluded with the Emperor, because, by that Alliance, the Dominions of *Spain* were to be given to a Branch of the House of *Austria*. But as his present Majesty has no such Design, he has no Occasion for any such Stipulation. If we now make any Conquests in that Part of the World, as I hope we shall, no Ally we can have in the present War, will have a Right to prevent our keeping Possession of what we conquer: Whereas, by the Alliance we then entered into, the Emperor would have had a Right to prevent it, if it had not been for that Stipulation.

"I do not see, my Lords, how any of our former Measures can be properly brought under our Consideration in this Debate. I wish we could all forget our Differences about past Measures, and heartily unite in such Measures for the time to come, as may redound to the Glory and Advantage of our Country. But as the noble Lord who spoke last, was
pleased

pleased to throw out some Things that may be look'd on as Reflections upon our past Measures, I think it incumbent upon me, considering the Post in which I have the Honour to serve his Majesty, to say something in their Justification. I have approved of our public Measures, my Lords, for several Years past: I still approve of them: Nay, I so much approve of them, that if any one of them had been otherwise than it was, I am convinced, I should have disapproved of it. The noble Lord has found fault with several of our Measures: He has particularly, upon this Occasion, found fault with our Negotiations for preventing a War, which, of all others, are, in my Opinion, the most justifiable. His Majesty, out of his tender Regard to his People, was resolved, if possible, to avoid a War: He endeavoured, as much as he could, to obtain Redress by peaceable Means. For this Purpose it was necessary to negotiate; and, from the same Motive, he continued to negotiate, as long as there were any Hopes of Success. I hope the noble Lord would not have had us declare War before we demanded Redress; and we could not, in Justice, declare War, as long as we had Reason to believe our Demand would be complied with. Our Negotiation were not altogether fruitless: They procured a Convention, by which, if *Spain* had been sincere, an open Rupture might have been avoided; for I must still approve of that Convention: I must still think, we acted prudently in agreeing to it. Reparation for our Damages was thereby expressly promised; and, if that Promise had been fulfilled, the other Articles in Dispute might have been easily adjusted. But when the Court of *Spain* refused to comply with what they so solemnly promised, then, and not till then, it became in vain to negotiate; and then his Majesty, according to the Advice of his Parliament, resolved upon forcible Means, for obtaining that, which he saw he could no longer expect to obtain by Negotiation.

Trade, my Lords, is our chief Support: Even the noble Lord who spoke last, has acknowledged it to be so; therefore it is necessary for us to avoid War as much as possible; for our Trade must suffer by every War we can be engaged in. It must, of course, occasion an entire Stop to our Trade with that Nation against which we happen to be engaged, and this breaks the Chain of the general Trade we carry on; for our Trade with every Nation depends, in some measure, upon our Trade with every other Nation where we carry on any Commerce. Besides, our Trade must suffer in every Branch, by the Privateers of that Nation we are at War with; for it is impossible so to cover the Ocean with Cruisers, as to prevent their sending out Privateers; and, if they have
any

Ann. 13 Geo. II.
1739.

any such at Sea, our Merchant-Ships cannot proceed safely on their Voyage without Convoy; which is always a great Expence, and often occasions a Disappointment to the Merchant. To which I must add, that a War with *Spain* must always be more injurious to our Trade, than a War with any other Nation in *Europe*; because of the great Trade our Merchants carry on in that Kingdom, either in their own, or in borrowed Names, and because of that Country's lying so convenient for interrupting, by their Privateers, our Trade with *Portugal, Turkey, Italy, Africa*, and with our own Plantations in *America*.

' No Man therefore, my Lords, who considers these Things, can, in my Opinion, blame our endeavouring to avoid a War with *Spain*, by Means of a Negotiation. We were in the right to negotiate as long as we had the least Hopes left of obtaining Satisfaction in that Way. If his Majesty had plunged the Nation into a War, upon the first Insult offered by *Spain*, I am convinced we should then have had as much said, and I am sure with more Reason, against a rash and precipitate War, as we have lately heard against long and tedious Negotiations. The Inconveniencies and Losses our Trade was exposed to by a War, would have been set forth with great Vehemence: The Advantage of our Trade with *Spain*, would have been magnified to a high Degree; and the Prudence of waiting a more favourable Conjunction for obtaining Redress from that Crown, might have been with Justice insisted on; because, as it is the Interest of that Nation not to fall out with us, it was reasonable to expect, that a Change of Measures at that Court, or a Change in their Administration, would have put an End to their injurious Treatment of us, and would have inclined them to give Ear to a friendly Accommodation.

' But, my Lords, as his Majesty, like a tender Father, was loth to engage his People in a War, which must be fatal to some of them, and prejudicial to great Numbers; as he endeavoured to prevent a War by Negotiation, as long as there were any Hopes left of succeeding in that Way, those who are resolved to find fault with the Conduct of our public Affairs, (which, I am sure, is not the Case with regard to any of your Lordships) have now nothing to say, but against our Negotiations, which have, indeed, at last failed of the wished-for Success; but this, I am sure, no Man could foresee. Before the End of *May* last, no Man could pretend to say, that this would be the Event. As soon as this happened to be the Case, his Majesty began to prepare for War, and took the first Opportunity to commence Hostilities; and we have, at least, gained this Advantage from our Negotiations,
that

that all the Powers of *Europe* must now see we have Justice Ann. 14 Dec. 1739
of our Side, because we did not offer to attack them, till they had broke through one of the most solemn and explicit Stipulations that one Nation can make with another. The others Powers of *Europe* could not easily, or perhaps would not be at the Pains to understand the Disputes between the *Spaniards* and us about searching our Ships on the Seas, or about our respective Rights and Limits on the Continent, or in the Islands of *America*; but every Power in *Europe* must understand, and must look on their refusing to pay the 95,000*l.* stipulated by the Convention, as an open and notorious Violation of Faith.

His Majesty's Declaration of War has, 'tis true, put an End to those Clamours that were raised against our peaceable Negotiations; but I am afraid, my Lords, it has not put an End to our Divisions. Those who in Time of Peace cried out for War, cannot certainly find fault with the Declaration of War. This would render them ridiculous; but I am afraid the same Spirit that prompted them to find fault with our peaceable Negotiations, will prompt them to find fault with our warlike Operations; and the very Nature of the Thing must furnish them with a greater Abundance of Materials for Complaint. In Time of War some cross Accidents must happen: The best concerted Schemes may fail of Success: The former will be ascribed, by the Malicious, to want of Care, and the latter to want of Conduct. The noble Lord who spoke last, has indeed, with his usual Candour, declared, that if the Plan be right, he will not find fault with the Event, therefore, I do not question our having his Approbation in every Step of our future Conduct; and as we have Justice on our Side, and may consequently expect the Protection of Divine Providence, I hope the most malicious will have but very little room to find Fault. We have already met with some Success; which, in all Probability, will soon be followed by others. We have failed in no Attempt but one, and that was so visibly occasioned by contrary Winds and Storms, that no Man can have the Assurance to impute it to any Defect in our Conduct. At the same Time, so great Care has been taken to provide for our Safety at home, and for the Protection of our Dominions and Trade abroad, that we are in no great Danger of being attack'd in any Part of our Dominions; and considering the extensive Trade we carry on, and the vast Number of Ships our Merchants have at Sea, so few of them have fallen into the Hands of our Enemies, and all this has been done with so much Prudence and Oeconomy, that the most fertile Malice cannot, I think, invent an Objection against our Conduct since the Commencement of the War.

Ann. 13 Geo. II.

1739.

‘ I shall join with the noble Lord in saying, that it is our Business to make this, as well as every other War we engage in, as short as possible, and, I hope, the War we are now engaged in will not be of any long Duration. It cannot continue long, if *Spain* gets no Assistance from any other Power in *Europe*. We have already provided, I hope sufficiently provided, for our Defence, which was certainly the first Thing necessary. We are now to provide for attacking the Enemy; and I make no doubt but that as soon as the Season will permit, we shall be able to attack them in the proper Place, with such a Force as they cannot resist. Our Negotiations to prevent a War were, perhaps, more tedious than was agreeable to some People amongst us; but now the War is begun, I hope we shall be able to push it with such Vigour and Success, as must produce an honourable Peace, before any Man in the Kingdom can have Time to be tired of the War. As his Majesty has secured us, by an Augmentation of his Land-Forces, against the Designs of our Enemies at home; and, by covering the Seas with his Squadrons, against an Attack from our Enemies abroad, the *Spaniards* must soon find themselves disappointed in the Hopes they had, of reaping Advantage from our Divisions; and being deprived of these Hopes, when they see that we are ready to attack them in the most sensible Part, and with an irresistible Force, they will probably submit to reasonable Terms. They must submit, unless they are sure of having the Aid of a neighbouring Power, for preventing that Vengeance which will soon be ready to burst upon them.

My Lords, the noble Lord that spoke last has allowed, that there is some Danger of *France*'s declaring against us in the present War. He has allowed that *France* may sacrifice her Trade to other Views. I do not know that we are as yet in any Danger from that Quarter. I hope we are not; but no Man can tell how soon we may; for, notwithstanding the great Age of the present prime Minister of that Kingdom, notwithstanding his present peaceable Disposition, we cannot entirely trust to it; We know he can alter that Disposition, when he finds it proper or necessary so to do; We know the Animosity that has so long subsisted between that Nation and this: We know the Regard the People of *France* have for the Royal Family of *Spain*; and therefore the prime Minister of that Kingdom, notwithstanding the arbitrary Form of their Government, may, like the Ministers in other Countries, be forced to chime in with the general Inclinations, perhaps the general Whim, of his Countrymen. Many Things may induce the *French* to alter their present Measures, and as their King is absolute Master within his Dominions, the Effects

fects of that Alteration may, and probab'y will be instantane- Ann. 13 Dec. 11.
ous, and may be fatal to us, if we are not fully provided 1739.
against them. On this Account it is prudent, it is necessary
for us to make more formidable Preparations; and to put
ourselves to a greater Expence, than might, perhaps, be ne-
cessary, if we were sure of having none but the *Spaniards*
to deal with.

' But this, my Lords, is far from being the Case. We
cannot depend upon the Councils of any foreign Nation.
The only sure Method we have for preventing an Alteration
in their Councils with Regard to us, is to prevent its being
in their Power to hurt us, by providing sufficiently for our
Defence at Land, as well as by Sea; and as the Court of
France is nearly allied with that of *Spain*, as the Coast of
France lies more convenient for invading this Kingdom, than
any other Coast in *Europe*, we ought, in the present War,
to provide against a sudden Attack from thence, as well as
against an Attack from *Spain*. It is a little, I may say;
diverting to observe the different Opinions of some without
Doors at different Times. It is not many Years since the
Power of *France* was represented in a terrible Light: We
were but a few Years ago told, that the Power of *France*
was become dangerous to the Liberties of *Europe*; and
from thence an Argument was drawn for our engaging
against that Crown in a War, in which we had no imme-
diate Concern. I am sure the Power of *France* is no way
diminished since that Time, nor can I think, that the Power
of this Nation is any way increased; and yet now, we are
told, that the Power of *France* is so inconsiderable, that
even this Nation alone has nothing to fear from the united
Power of *France* and *Spain*: And that *France*, by joining
with *Spain* in the present War, may hurt herself, but cannot
hurt us. This Way of talking is something strange; but I
am no way surprized at it. We were then in Peace, and
our Administration were against involving their Country in
War, unless *France* should push her Conquests so far, as to
endanger the Liberties of *Europe*: We are now in War, and
our Administration think it necessary to provide against
France's taking a Share in the War against us. This is the
sole Cause of this Difference in Opinion, with regard to the
Power of *France*. Our Administration have, for good Rea-
sons, altered their Measures, and therefore those who op-
pose them must, without any Reason, alter their Opinions.

' I am far from accusing any Lord in this House of such a
Conduct. Your Lordships always form your Opinions upon
Reasons that appear at least to you substantial; but this, my
Lords, cannot be said of many without Doors. The chief

Ann. 13 Geo. II. Reason for the Opinion they form, often seems to be, be-
 1739. cause the Administration happens to be of another ; and such
 a Conduct must proceed from a Spirit of Division and Ani-
 mosity : I am sure, it does not proceed from a Spirit that
 can, in any Sense, be called rational. It must from thence
 appear, that there is a Spirit of Dissension and Animosity
 reigning without Doors ; and those who are disaffected, will
 always endeavour to cultivate and improve that Spirit as
 much as they can, especially at the Beginning of a foreign
 War. This made it necessary for his Majesty, upon the pre-
 sent Occasion, to caution us against Heats and Animosities,
 and for the same Reason we ought to pay a due Respect to
 that Caution, not only in our Address, but also in our future
 Conduct. This ought to prevail with us, to be as unanimous
 as possible in all our future Resolutions ; for, tho' no Diffe-
 rence of Opinion ever arises to any Heat or Animosity in this
 House, yet it adds Fuel to those Heats and Animosities that
 are industriously fomented by the Disaffected without Doors ;
 and, as it cannot be supposed, that any of your Lordships
 are in the least concerned in those Divisions, Heats, or Ani-
 mosities that prevail without Doors, therefore, I hope, the
 noble Lord's Motion will be unanimously agreed to without
 any Amendment.'

Duke of Bedford.

Duke of Bed-
 ford.

' My Lords, As I have not the Honour to have any Share
 in his Majesty's Councils, I cannot pretend to say, what is
 meant by the Divisions, Heats, and Animosities mentioned
 in his Majesty's Speech from the Throne ; but as that Speech,
 and all such Speeches are directed to the two Houses of Par-
 liament, the most obvious, and, I think, the most natural
 Construction that can be put upon it is, That his Majesty
 means the Divisions, Heats, and Animosities that have arisen
 in one or other House of Parliament. This is the Con-
 struction, I am convinced, that will be put upon it by our
 People at home, and by our Friends as well as Enemies
 abroad ; and as his Majesty can know nothing of these Di-
 visions, Heats, or Animosities, but by Information, I am
 sure, those that have told him of there being any such Thing
 in either House, have done no Service to their King or
 Country. No Man can, with the least Shadow of Truth,
 say, there has been any such Thing in Parliament ; and
 therefore I must think, that those who have given his Ma-
 jesty such a false Information, if they are not guilty of Treason,
 they are at least guilty of a very high Misdemeanor. It
 is a Misrepresenting of the Parliament to the King, which
 may be attended with Consequences fatal to the Nation,
 and

and therefore must be a Crime of a most heinous Nature. *Ann. 13 Geo. II.*
 What then shall we be guilty of, if by any Words in our
 Address, we confirm this Misrepresentation that has been
 made of us to his Majesty? Will it not make his Majesty,
 as well as every Person without Doors, both Abroad and at
 Home, be convinced, that there have been great Heats and
 Animosities in Parliament, and that those Heats and Ani-
 mosities are far from being allayed or alleviated? What an
 Encouragement will this be to our Enemies, what a Discon-
 solation to our Friends?

‘ Surely every Lord that hears me must be conscious, that
 there have been no Heats or Animosities in this House, and I
 have heard of none in the other. Even with Regard to the
 People without Doors, I cannot think, my Lords, there is the
 least Ground for saying, there is any Division or Animosity
 among them. I am sure it cannot be said, there is any Num-
 ber of Men in the Nation, that disapprove of the War his
 Majesty has declared against *Spain*. I have not lately been
 in many Parts of the Country, but here in *London* there ne-
 ver was a Measure more universally approved of by all Ranks
 and Degrees of Men. The People have shewn their Appro-
 bation by every Method they could think of; and I do not
 think, that a Measure so highly approved of in and about the
 City of *London*, can meet with any Censure or Opposition in
 the Country.

‘ What Circumstances the Nation was in, towards the
 latter End of King *William's* Reign, I cannot at present, my
 Lords, take upon me fully to explain; but I remember two or
 three Circumstances, which make our Case very different now,
 from what it was then. But three or four Months before
 that Prince made the Speech to his Parliament, which the
 noble Duke has been pleased to mention, the late unfortu-
 nate King *James* having died at *St. Germain's* in *France*, his
 Son was publicly proclaimed King of *England, Scotland,*
and Ireland, at *St. Germain's*, and solemnly and openly ac-
 knowledged as such by the King of *France*, which was a
 good Reason for King *William's* admonishing his Parliament
 to beware of Divisions and Animosities, and a Reason which
 does not now subsist. This, I say, was a good Reason;
 but there was still a much stronger. In the very Session of
 Parliament immediately preceding that which he opened with
 the Speech the noble Duke has mentioned, there had been
 great Contests, and great Heats and Animosities in both
 Houses: Several noble Lords who were the King's chief
 Ministers and Favourites, and who had done signal Services
 to their Country, had been impeached by the House of
 Commons, which not only raised Heats and Animosities in

Ann 13. Geo. II. 1739. each House, but occasioned a sort of Breach between the two; and was, perhaps, the Occasion of dissolving that Parliament about the End of the ensuing Summer. To this I may add, that even as to the War then about to be entered into, there were great Divisions in the Nation; some being for entering into it as Auxiliaries only, and some for entering into it as Principals: Nay, the Party for the former of these two Methods was so numerous and powerful, that had it not been for the Indignity put upon these Kingdoms by the French King, as I have just mentioned, the Nation could hardly have been prevailed on to enter into the War as Principals.

King William, therefore, had some Reason to caution his Parliament, being a new one, which he had no Experience of, against those Heats and Animosities that had actually happened in the former; but surely, my Lords, no such Reason exists at present. His Majesty has had several Years Experience of this Parliament: There have been no Heats or Animosities in Parliament: There has been no Animosity among the People, but a very general one against *Spain*, and as general a one against the Tameness with which our Ministers bore the Insults of that Nation. The latter is now put an End to by his Majesty's Declaration of War: The former, I hope, will continue till we have fully revenged our selves of our Enemies. By Divisions, Heats and Animosities, nothing can be meant but the Opposition which the People in general, and many Members of both Houses of Parliament, have shewn, and the Indignation with which they have treated the late peaceful, negotiating Humour of our Ministers; and to call that Opposition a Division, or to complain of its being carried on with Heat or Animosity, is throwing an unjust Reflection upon the whole Nation, and upon many Members of both Houses, merely for the sake of making a Compliment to our Ministers, which, I hope, this House will give no Countenance to; and therefore I think we ought to avoid saying any Thing in our Address about Divisions, Heats or Animosities. I am sure, if the noble Lord intends to have his Motion unanimously agreed to, he will take the Advice that has been offered, and leave out of his Motion, every one of those Expressions that have been objected to.

Lord Talbot.

Lord Talbot.

My Lords, That there have been Heats and Animosities amongst us I shall admit, but they are now wisely put an End to; and I shall beg Leave to shew, how they were occasioned, and in what manner they have been put an End to.

If

If we look back upon the Conduct of our public Affairs for almost these twenty Years, we may easily find the Cause of all our Heats and Animosities: We may justly admire, that they have not been more violent, and more fatal to those that were the Cause of them. We have been, during that long Period, in what some amongst us are pleased to call a State of Tranquillity; but that Tranquillity has been attended with all the Expence, and almost all the Misfortunes of a real War, without a Chance of reaping any of that Glory, or any of those Advantages, that may be reaped by open Hostilities. We have been negotiating when we ought to have been fighting, and we have been concluding Treaties with those, against whom we ought to have declared War; and to render those Negotiations effectual, or to enforce the Observance of those Treaties, we have been keeping up expensive Armies, that have raised Terrors among our own People at home, because they could not guess for what they were designed, and fitting out expensive Squadrons, that have raised no Terrors among our Enemies abroad, because, I suppose, they very well knew for what they were designed.

This, my Lords, is a Summary of our Conduct for almost these twenty Years past; and such a Conduct could not, in my Opinion, fail of begetting Heats and Animosities at home, as well as Contempt and Infamy abroad; but to make this the more evidently appear, I must examine into some of the particular Steps of our Conduct, and for that Purpose shall begin with the famous Treaty of *Hanover*; for, I think, I need go no farther back at present. In the Beginning of the Year 1725, the Courts of *Vienna* and *Madrid* thought fit, by themselves, to accommodate all the Differences that subsisted between them, and to conclude Treaties of Peace, Commerce and Guaranty, in which there was not any one Article contrary to the Treaties that either of them had made with us. What Offence we could take at this Step in either of these Courts, I do not know: Nay, suppose it had been true, that they had concluded such a private Treaty as was represented, we had no Occasion for taking any extraordinary Measures against it; because the *Emperor* having no naval Force, he could give *Spain* no Assistance against us. However, we allowed ourselves to be so much alarmed, that the same Year we concluded at *Hanover* an Alliance with *France*, which, I am sure, is the last Nation in *Europe* we ought to enter into an Alliance with; and the whole Nation was terrified with an Invasion in favour of the *Pretender*, tho' every one knew, that the *Emperor* and *Spain*, joined together, could not fit out such a naval Force,

Ann. 13 Dec. 1719. as would have been equal to that which we can, at any Time, fit out upon a Week's Notice.

But we did not rest here, my Lords: We did not satisfy ourselves with providing, by such an Alliance, for our Defence: The very next Year, we raised Armies and fitted out Squadrons, as if we had been to attack those whom we thus represented to be our Enemies. We sent one powerful Squadron to the *Baltick*, another to the Coasts of *Spain*, in *Europe*, and a third to their Coasts in *America*. At the same Time we augmented our Army to above 26,000 Men; and the whole Nation expected that our Enemies would have been made to suffer severely for the ridiculous Designs they had formed against us. But our Armies and Squadrons produced no other Effect than to load our own People with Expences, and to make *Spain*, begin actual Hostilities against us, by seizing all our Merchants Effects they could find in their Dominions, by fitting out Privateers, and taking all our trading Ships they could meet with at Sea, and by laying Siege to *Gibraltar*.

Tho' we had at first, my Lords, no Provocation for attacking *Spain*, yet these Hostilities were, surely, a good Reason for declaring War against them; and, by the Treaties we made, and the Subsidies we engaged to pay, it look'd as if we really design'd to do so; for after near a Year's Negotiation, we got the *Dutch* to accede to the Treaty of *Hanover*, under many Conditions and Restrictions: In about 18 Months we obtained a Promise from the *Landgraves of Hesse*, to keep in Readiness for our Service 12,000 Men, for which we engaged to pay him 125,000 *l. Sterling*, which was continued to him for several Years, tho' his Troops were never employed in our Service: About the same Time, we obtained the Accession of *Sweden* to the *Hanover Treaty*, under Condition of paying them a yearly Subsidy of 50,000 *l.* for three Years certain, one Half of which was to be paid by *France*: In about 19 Months we obtained the Accession of *Denmark*, under Condition of paying them a large Subsidy for four Years certain, which was all to have been paid by *France*, tho' we afterwards thought ourselves obliged to pay a Part of it: And upon the 25th of *November*, 1727, we obtained the Alliance and Guaranty of the Duke of *Wolfsenbuttle*, upon Condition of paying him 25,000 *l.* yearly, for four Years certain. By all these Preparations, Negotiations, and Alliances, I say, my Lords, it look'd as if we had, at that Time, really a Design to declare War against *Spain*, and to revenge ourselves fully, for all the Insults they had put upon the Nation; but this was far from being the Case: Our

Armies

Armies, as well those at home, as those we paid so dear for Ann. 13 Geo. III.
 abroad, remained quiet in their respective native Countries,
 and our Squadrons continued inactive upon the Coasts of 1739.
Spain, at the very Time they were besieging *Gibraltar*, and
 making Prize of every one of our Merchants Ships they
 could meet with at Sea. Instead of declaring War, or com-
 mitting Hostilities, against *Spain*, we were treating and ne-
 gotiating with them, or at least with the *Emperor* on their
 Behalf; for the Court of *Spain* itself carried it at that Time
 so high, and held us in such Contempt, that they would not
 so much as treat with us; and in *May*, 1737, preliminary
 Articles were concluded at *Paris*, between the *Hanover* Al-
 lies and the *Emperor*, by which we promised, that all Ho-
 stilities should on our Side immediately cease, tho' *Spain* was
 no contracting Party in this preliminary Treaty; which Pro-
 mise we religiously kept, tho' *Spain* refused to agree to the
 Preliminaries, and continued Hostilities for near a Year lon-
 ger, when by the Intervention of the *French* Ambassador at
Madrid, we obtained from *Spain* a Convention for the Exe-
 cution of those Preliminaries, in pursuance of which, a Con-
 gress was appointed; but this Congress was rendered abor-
 tive, by our joining in a new Alliance with *France* and *Spain*
 against the *Emperor*, by the famous Treaty of *Seville*.

By this Treaty, my Lords, we had got of our Side, al-
 most all the Powers of *Europe* that have any naval Force, so
 that we could have no Pretence for fitting out a Squadron with
 any warlike Intention; but this did not prevent our putting
 ourselves to the Expence of fitting out one. In order to pay
 a Compliment to the *Spanish* Court, we sent a Squadron of
 above twenty Men of War, all Capital Ships, to the *Medi-*
terranean, in the Year 1731, to conduct the Infant *Don*
Carlos to *Italy*; and this we did, when they were erecting
 Forts and Batteries against our Town and Bay of *Gibraltar*,
 and committing many Depredations upon our Merchants in
 the *West-Indies*; which we took no Notice of, tho' strong
 Representations had been made, by our People at *Gibraltar*,
 against the former, and an Application had been made to
 Parliament, by our Merchants, against the latter. Nay,
 tho' the Court of *Spain* had evaded making that Reparation
 for past Injuries, which they had promised by the Treaty of
Seville, we took no effectual Notice of it. We contented
 ourselves with sending Commissaries to wrangle and dispute
 about the Injuries we had suffered before that Treaty,
 and with ordering our Minister at that Court to present
 long, perplexed Memorials, against those we suffered after-
 wards.

Ann. 13 Geo. II.

1739.

‘ This, my Lords, was the State of Affairs between *Spain* and us in the Year 1733, when they attacked our Ally, the *Emperor*, in *Italy*, with those very Troops which we had assisted them to carry thither, and at a Time when, from the many Evasions they had before made use of, we had no Reason to expect any Satisfaction from them by peaceable Means. If we were, at that Time, under no Obligation, or if we had no Inclination to assist the *Emperor*, yet surely our own Interest should have inclined us to take that Opportunity of declaring War against *Spain*, if they refused to give us the most ample Réparation for our former Losses, and absolute Security against our being exposed to any such for the future; but instead of this, our Commissaries and Minister continued soliciting at the Court of *Spain* for that which we might, with great Justice, and then, probably, with great Success, have insisted peremptorily upon; and the *Emperor*, for want of that Assistance which he thought he was, by Treaties, entitled to from his Allies, was at last obliged to submit to those Terms which were prescribed to him by his Enemies.

‘ Whilst the War continued, my Lords, the *Spaniards*, 'tis true, put a sort of Stop to their Depredations in the *West-Indies*, and entertained our Ministers with some Hopes of a final Adjustment; but no sooner was the War over, than, as might have been easily foreseen, they began to renew their Depredations with fresh Vigour in the *West-Indies*, and, I suppose, they plainly told us, that they would give no farther Satisfaction than they had done, with regard to any of our Losses sustained since the Treaty of *Seville*; for I do not find that it was ever afterwards seriously insisted on: I am sure, the Sum stipulated by the late Convention was so far from being any Satisfaction for those Losses, that it was not near equal to the Losses our Merchants have sustained, by Depredations committed since the concluding of that Treaty.

‘ Thus, my Lords, we lost all the Advantages we might have reaped from the War between *Spain* and the *Emperor*; and, I am afraid, we lost a great deal of our Character into the Bargain: But tho' we let slip that Opportunity for vindicating the Honour, and securing the Trade of the Nation, we took care to lay hold of it for putting the Nation to an extraordinary Expence, by raising Armies, fitting out Squadrons, forming Alliances, and engaging to pay Subsidies. Soon after the War broke out, we increased our Land Force to near 27,000 Men; and for augmenting our Naval Force, we increased the Number of Seamen, employed in his Majesty's Service, to 30,000: We sent a Minister extraordinary to *Holland*, tho' we knew that the *States-General* had be-

fore concluded with *France* a Treaty of Neutrality ; and in *Ann. 13 Geo. II. September 1734*, we concluded a Treaty with the King of *Denmark*, by which we engaged to pay him an annual Subsidy of upwards of 56,000 *Sterling* for three Years certain. From these extraordinary Warlike Preparations, and most extraordinary Expences, the People supposed that we were to exert ourselves in the most vigorous manner, for retrieving an ancient Ally from the Distress he was then in, for procuring Justice to our injured Merchants, and for vindicating the Honour, and securing the Trade of the Nation ; but the Emperor, it seems, knew better, and therefore he submitted to the hard Terms that were offered him by his Enemies, which threw the Affairs of *Europe* into a Situation, perhaps, the most unfortunate that they ever were in for this Nation.

Upon this, my Lords, we disbanded the additional Forces we had raised both by Sea and Land, and seemed to think we had nothing more to do ; for tho' the Depredations of the *Spaniards*, upon our Merchants, and their Insults upon the Nation, in the *West-Indies*, were now become more frequent, and more open, than they had ever been before, it seemed to give us no real Concern. We took no Step for redressing these Grievances, or for protecting our Trade, till an Application to Parliament by our Merchants, two Years ago, made it necessary for some Persons to take a little more Notice of their just Complaints. We then again began to make some Warlike Preparations : We raised an additional Number of 10,000 Seamen ; and we sent one Squadron to the *West-Indies*, and another to the *Mediterranean*. But still we trusted to our favourite, tho', by Experience, so often found to be ineffectual, Methods of Negotiation : Our Squadrons did nothing, but our Negotiators, 'tis true, did something : They procured us that famous Convention which we had before us last Session of Parliament, and which we have now found to be as frivolous, with regard to this Nation at least, as the other Treaties we had before entered into with *Spain* ; and thus all our Negotiations and Treaties have at last ended in a War, perhaps the most dangerous, I am sure most unseasonable, that this Nation was ever engaged in.

I shall now, my Lords, give you a short Account of the Charge the Nation has been put to, by these warlike Preparations, and pacific Measures ; but, in order to set this Charge in the clearest Light, I must observe, that, if we kept no greater Number of regular Troops, nor any greater Number of Seamen, in our Pay, than are necessary for our Security in time of Peace, I am convinced, the annual publick Expence could never amount to above 1,500,000 *l.* so that,

Ann. 13 Geo. II.
1739.

by Means of a Land-Tax of 2 s. in the Pound, and the usual Malt-Tax, instead of contracting a new Debt yearly, which has been our Case for many Years, we should have been able to provide annually for the Service of the Year, and to pay off above 100,000 *l.* yearly of our old Debt; and if all useless Posts, and useless or extravagant Salaries or Perquisites, had been enquired into, and abolished or reduced, I am sure it would have added a considerable Sum to our annual Savings. However, I shall wave taking Notice of this last Article of Frugality, and state the necessary annual Expence of the Nation at 1,500,000 *l.* in order, from thence, to compute the Supra-Charge that our Warlike Preparations, and unnecessary Squadrons and Armies have cost us.

‘ Upon computing the Sums granted every Year by Parliament, for the Service of the ensuing Year, I find, my Lords, that the first Session, after the famous Treaty of *Hannover*, granted, for the Service of the Year 1726, 1,939,285 *l.* but this was not all that was expended in that Year; for, by a Vote of Credit and Confidence passed near the End of that Session, his Majesty was empowered to augment his Forces both by Land and Sea; and to take such Measures as the Exigency of Affairs might require; which Power was accordingly made use of, and therefore, by the next Session, there was granted, for the Service of the Year 1727, and for Deficiencies in the former Year 2,980,801 *l.* For the Service of the Year 1728, there was granted 3,123,449 *l.* For 1729, 3,087,859 *l.* For 1730, 2,166,400 *l.* For 1731, 2,060,232 *l.* For 1732, (the Tranquillity of *Europe* being then, as some wise Politicians amongst us judged, established upon a lasting Foundation, tho’ it was really upon a most precarious one, as soon after appeared) 1,743,359 *l.* For 1733, (the War between *France* and its Allies of one Side, and the Emperor of the other, having broke out in that Year) 1,835,056 *l.* For 1734, 3,821,714 *l.* 1,200,000 *l.* of which was to be applied towards paying off so much of the Debt of the Navy, and 287,343 *l.* for the Deficiency of the preceding Year; but, as the War I have mentioned was then just broke out, and as we resolved that this Nation should have a Share in the Expence, tho’ it was to have no Share in the War, this was far from being all that was expended that Year; for, by a Vote of Credit, agreed to about the End of the preceding Session, his Majesty was empowered to augment his Forces both by Sea and Land, and to take such other Measures as the Exigency of Affairs might require, in Pursuance of which, the Augmentations were made, and the other Expences incurred, which I have before mentioned; and therefore, for the Service of the Year 1735, and the Deficiencies of the former

former Year, there was granted by Parliament the Sum of 3,070,129 *l.* For the Service of the Year 1736, 2,181,859 *l.* For the Service of the Year 1737, 1,952,725 *l.* and for the Year 1738, 2,356,719 *l.*

Ann. 13 Geo. II.

1739.

‘ In these Computations, my Lords, I have omitted all those Sums that were granted for making good the Deficiencies of former Funds, and likewise all those that were granted for paying off any Part of our Debt: I have reckoned nothing but what was granted for current Services, or for extraordinary Expences incurred in the preceding Years; and, from these Computations, it will appear, that the Grants for the Thirteen Years I have mentioned, amount in the whole to 32,319,587 *l. Sterling*. Whereas, if we had kept within 1,500,000 *l.* yearly, which we may always do in Time of Peace, the whole of our Expence for these Thirteen Years would have amounted to no more than 19,500,000 *l.* so that by keeping up Armies, paying Subsidies, and fitting out Squadrons, which we made no use of, nor had any Occasion for, we had wasted very near Thirteen Millions, which, if it had been regularly and annually applied to its proper Use, would have paid off near Seventeen Millions of our public Debt; and such a Payment would have been attended with this farther Advantage, that it would have enabled us, some Years ago, not only to have reduced the Interest upon the remaining public Debt, but also to have reduced the Interest of Money in general, to 3 *per Cent.* which would have made it much easier, than it is at present, for many Landed Gentlemen to pay the Taxes necessary for the annual Support of our Government.

‘ Considering the Situation we are now in; considering the Situation the Affairs of *Europe* are in; considering the Misfortunes one of our most ancient and best Allies has met with, and considering the Insults this Nation has met with, and the many Depredations and Cruelties our Merchants and Seamen have been exposed to; I believe I may, I do, my Lords, with Confidence appeal to every Man that hears me, whether we have reaped one Shilling's Worth of Advantage by the numerous Armies we have kept up, the powerful Squadrons we have fitted out, the great Subsidies we have paid, and the many Negotiations and Treaties we have carried on and concluded since the memorable Year 1721? Shall we then be surprized, that there have been Heats and Animositities amongst us? Can we be at a Loss in assigning the Cause? Could it be supposed, that a brave, and a free People would bear, with Patience, being exposed, by pacific Measures, to the Insults and Contempt of their Enemies; and

Ann. 13 Geo. II. that at a Time when they were loaded with an Expence, that might have made them the Terror of their Foes?

1739.

It is evident, my Lords, that all the Heats and Animofities that have been amongst us of late Years, have fprung from thofe pacific Counfels, that have made us tamely fubmit to fo many Infults, and thofe warlike Appearances, that have fubjected us to fo great an Expence ; and, when we confider from whence our Heats and Animofities have proceeded, we may eafily fee how they have been put an End to. His Majefty's Declaration of War has put an effectual End to them ; and, if the War be carried on in a warlike Manner, if the Naval and Land-Force of this Nation be wifely and vigoroufly employed, I dare answer for it, no Heats or Animofities will arife amongst us whilst it lafts. But, if the fame negotiating Humour, which has fo long prevented our declaring War, notwithstanding the many juft Provocations, and the many good Opportunities we have had for it, fhould now prevent our pushing it with Vigour, as the Confequences will be more fatal, I am afraid the Heats and Animofities that muft enfue, will be much more violent.

For this Reafon, my Lords, as his Majefty's Speech from the Throne, is always, in this Houfe, underftood to be a Speech from the Minifters, and as our Addrefs by way of Answer to that Speech, muft confequently be fupposed to be an Answer made to the Minifters ; therefore, if we make any mention of Heats or Animofities, we ought to tell them, that as there are now no Heats or Animofities amongst us, we hope they will take care to prevent any fuch for the future, by a vigorous Profection of the War. This fhould be the Amendment I would propofe, if I could expect that my Advice would be taken ; but, as this, I cannot expect, and as fome Lords may think, that this would be a more free Way of Addressing our Sovereign, than has been ufual of late Years, tho' not more free than has been practifed by our Anceftors, I fhall content myfelf with being for the Amendment propofed ; and I hope the noble Lord, who made the Motion, will endeavour as much as he can to prevent Prejudices or Animofities having a Share in our Deliberations, by agreeing to leave thefe two ugly Words out of his Motion.

Earl of *Chefterfield*.

The Earl of
Chefterfield.

My Lords, upon fuch a folemn and important Occafion, I am forry to find that a Difpute fhould arife, or the Unanimity of this Houfe be difturbed, on account of a few Words or Exprefions, which no Lord will pretend to be of any Importance

in themselves, either to the Crown or the Nation, whatever they may be to the Minister: and therefore, when they were taken Notice of, and objected to by my noble Friend near me, I expected that the noble Lord, who, I supposed, had accidentally made them a Part of his Motion, would have so far contributed to that cordial Union which he was pleased to recommend, as to stand up and agree to the Amendment proposed. But when I found those Words and Expressions insisted on, not only by him, but by other Lords, who may be supposed to have had some Hand in advising and framing his Majesty's Speech from the Throne, I then began to suspect that those Words had not dropt into the Motion by Accident; but that they had been inserted with Design, to make this House confirm a Representation that has been made to his Majesty, by some who are, perhaps too often, near his Person; and in this Light I must acknowledge, they are of the utmost Importance to the Crown, to the Nation, and above all, to the Honour and Dignity of this House.

Ann. 23 Geo. II.

1739.

'I know, my Lords, it has been of late Years a Custom, to make the Address of this House a Sort of *Echo* to his Majesty's Speech from the Throne; and, as *Echos* never fail to repeat the last Words of a Sentence, so it seems, we must never fail *echoing* back the last Paragraph of his Majesty's Speech. This, I say, has been a Custom for some Years past; but I cannot think that a religious Observance of this Custom, is either consistent with the Character we ought to preserve, or necessary for shewing our Respect to our Sovereign. I am sure, upon the present Occasion, it will be a Failure in our Duty to the King, and an exposing of ourselves to the Censure at least, if not to the Contempt, of the whole World.

'Can any one, with Justice, say, my Lords, that Prejudices, Heats, or Animosities, have of late been intermix'd in our Deliberations? Can any one, with Justice, say, that there has lately been any Division among the People of this Nation? I am really astonish'd, how such Words could creep into his Majesty's Speech from the Throne. The Speech, 'tis true, is generally said to be the Speech of the Minister; but I wonder what Minister dared to tell his Majesty, that there have been, or ever were, any Heats or Animosities in our Deliberations, or that there have lately been any Divisions amongst his People. I believe, there is no Assembly in the World, where Deliberations and Debates are carried on with more Decency and Calmness: I believe, the People of this Nation were never less divided in their Sentiments, than they have been of late Years. Therefore, if any one has of late

Ann. 13 Geo. II.

1739.



late presumed to say to his Majesty, that there were Heats or Animosities in any of our Deliberations, or that there are Divisions amongst his People, it must be one of the grossest Misrepresentations that was ever whispered into the Ear of any Sovereign Potentate ; and shall we, by any Expression in our Address, give Credit to such a Misrepresentation, and enter, as it were, into a Combination for putting an Imposition upon our Prince, that must give him a bad Opinion, not only of his People, but also of this Assembly, of which we have the Honour to be Members. Such a Conduct, with regard to the People, would be most unjust ; but with respect to ourselves, it would be a sort of *Felo de se*.

‘ The People of this Nation, my Lords, were never, I believe, so unanimous in any one Thing, as they have, for several Years, been in that of desiring to have an Opportunity of revenging themselves against the *Spaniards*. The only Division, if it can be called so, that has of late appeared amongst us, has been between the People of one Side, and a few of our Ministers of the other. I say, my Lords, a few of our Ministers ; for, I will not do so much Injustice to the Administration, as to say, that all those who have a Share in the Administration, are of that Party which has so long obstinately withstood the general Voice of their Country. I hope I may say, all those that have a Share in our Administration : I hope our Administration consists of a great Number of Persons : I am sure it ought, by our Constitution, to consist of a great Number, that have no other Dependence upon one another, but that which results from their Duty to their Country, and their Affection to their Sovereign. If it be otherwise, I am sorry for it, and glad I have not so much as the Character of having a Hand in it. But let it consist of what Number it will : Let it be a sole Corporation (a Term well known to the Reverend Bench) if the World please to think it so, I am sure, it has had, with regard to its late pacific Measures, no Party among the People for this Dozen of Years past ; and, if any one has endeavoured to make his Majesty believe that it has, I am sure the Parliament, and particularly this House, ought to take a proper Method for undeceiving him ; for while our Parliaments continue to be of any Use to the Nation, they will always take care that the King may safely resort to them, as to the Fountain of Truth, in order to know the real Disposition of his People, and the true Character of his Ministers.

‘ This Division, my Lords, between a few of our Ministers, or one sole Minister, and his immediate Dependents, of one Side, and the whole Body of the People of the other,

has

has been the only Division that has appeared of late Years Ann. 13 Geo. III. 1739.
amongst us ; and, such a Division can in no Light be called
a Division among the People ; for in this Country, I think,
the People and the Administration are two Terms that are
generally made use of as opposite to each other, and there
was never greater Reason for making use of these two Terms
in this Sense, than there has been for several Years past.
Then, with Regard to Heats and Animosities, can any one
say, that there has been lately any Heat or Animosity a-
mongst the People, that is, amongst any one Set or Party of
them against another ? There have, indeed, been great
Heats and Animosities in the Nation, but in this too, the
People have been all united. They have most justly shewn
Heats and Animosities against the *Spaniards*, and as justly
against those who have so long prevented their doing them-
selves Justice. Our Heats and Animosities therefore, like
our Divisions, have been between the whole Body of our
People upon one Side, and our Ministers and Enemies upon
the other ; and this shews, that whatever Obstinacy *Spain*
may have shewn in her late Conduct towards this Nation, it
could not be owing to the Divisions, Heats or Animosities a-
mongst us ; because she could not but foresee, that if, by her
Obstinacy, she provoked us to declare War against her, the
whole Nation, both People and Ministers, would unite in a
vigorous Prosecution of that War ; which, I hope, is now
our Case. I hope no Man will dare to check the Progress
of our Arms, or to interrupt the Prosecution of the War,
by any Negotiation, unless such Preliminaries be offered, as
will atone for all past Injuries, and secure us against all
future.

My Lords, it was not by our Divisions, that the *Spaniards*
were encouraged to treat us in the contemptuous manner
they have done : It was by the Hopes they had, that our
Ministers would not dare to give a Loose to our Vengeance,
by declaring War against them ; and for these Hopes, the
long Patience of our Ministers, and their Fondness for Ne-
gotiation, had given them but too much Reason. But, if
there had been Divisions amongst us, and if those Divisions
made the *Spaniards* condemn us so much, as to refuse fulfil-
ling their Part of the last solemn Convention they made with
us, I will then say, that our Divisions have done a most sig-
nal Service to the Nation. The most unlucky Thing that
could have befallen this Nation, would have been the Court
of *Spain's* making that stipulated Payment which they had
wisely promised, and we had generously, I cannot say wise-
ly, accepted of in full of all Demands. If the *Spaniards*
had made that Payment, which I am surprized they did not,

Ann. 14 Geo. II. our Ministers would, from thence, have got a Pretence to negotiate for the eight Months following, with the same Success they had negotiated for the eight Years preceding; and the *Spaniards* would have got a Sort of Licence to plunder our Merchants for eight Months longer, by which they might fully have reimbursed themselves the inconsiderable Sum paid for that Licence. But why should I say eight Months: Upon the Expiration of that Term, I am convinced, our Ministers would have found Reasons for giving them several Renewals, without any new Fine, because the Renewals, and the several Negotiations for that Purpose, would have been most excellent Expedients for putting off two or three Sessions more.

‘ This, my Lords, has been our Case for many Years past: We have, every Year, and from Session to Session, been put off with Hopes, that before next Session, we should be able to obtain ample Satisfaction, and undoubted Security, by those Negotiations which every Man, except those that carried them on, foresaw would end in nothing but loading us with Expence at home, and with Ignominy and Contempt abroad. It is this, my Lords, that has created all the Divisions, and all the Heats and Animosities that have been amongst us. The People were for Resentment and Revenge, our Peace-makers for Patience and Forgiveness: The People called out for Reparation for past Injuries, our Peace-makers submitted tamely to fresh Insults. The People were for bravely vindicating, our Peace-makers for meanly prostituting the Rights of the Nation. Thank God! the People have at last prevailed; and this has healed up all our Divisions, and put an End, I hope a final End, to all our Heats and Animosities.

‘ His Majesty’s Declaration of War has now, I hope, brought all his Ministers to be of the same Sentiments his People have been of for many Years; at least, if they are not so in their Hearts, they must be so in Appearance; and this must of course put an End to the only Division that has of late appeared in this Nation: It must put an End to every Animosity but that just one against our Enemies, which will now, I hope, be allowed to take its full Swing. Perhaps some of our Ministers may still have a Hankering after Negotiation: If they have, let them but look upon his Majesty’s Declaration of War, and they must stifle every such Affection. They cannot suppose, that his Majesty will submit to treat with a Nation, that has exercised great Cruelties and Barbarities upon the Persons of divers of his Subjects: They cannot suppose, that his Majesty will submit to treat with a Nation, that has insulted the *British* Colours in the most ignominious manner: unless that Nation shall, in the hum-
blest

blest manner, sue for Peace. and offer, by way of Preliminary, the most signal Satisfaction, for the Cruelties and Barbarities they have exercised upon his Subjects, and for the ignominious Insults they have put upon his Crown and Dignity ; for I will be bold to say, that without such a signal Satisfaction, there is no future Security we can, with any Certainty, rely on. Nay farther, my Lords, no Man who reads his Majesty's Declaration of War can, I think, suppose, that he will treat with a Nation, that has been guilty of so many Breaches of Promise, and of so many Infractions of the most solemn Treaties, unless they offer by way of Preliminary, to put a real Security in our Hands, as a Pledge for their Performance of what shall be afterwards agreed on ; and when the *Spaniards* are brought, by the Vigour of our Arms, (for they can never be brought to it by Negotiation) to offer these Things by way of Preliminary, I know so much of the generous, forgiving Temper of my Countrymen, that I can engage for their unanimous Approbation of any Treaty our Ministry shall conclude, upon such safe and honourable Preliminaries.

Ann. 12 Geo. II.

1739.

Thus, my Lords, his Majesty's Declaration of War has put an end to all the Divisions, Heats, and Animosities, that have lately been raised and fomented, by the Conduct of some of our Ministers ; and the Form and Method in which it was drawn up will, I hope, secure us against a Renewal of any of those Divisions, Heats, or Animosities. For this Reason, I cannot let slip this Opportunity, to declare my Approbation of it. I not only approve of the Measure, but I highly approve of the Declaration itself. I do not know who it was that had the Honour of drawing it up : Be who he will, the Nation is, I think, highly obliged to him ; for it is expressed in the most proper, the most just, and the strongest Terms that could be devised. But, my Lords, I must observe, that it is expressly contrary to the Reasoning that was made use of last Year, in favour of the Convention ; and therefore, I was surprized to hear the noble Duke made a fresh Attempt to justify that Convention. I am sure, no Lord has a greater Respect for his Majesty, than he has : I am sure, no Man more heartily wishes to see our late Heats and Animosities utterly extinguished. But, when I consider the Terms in which the Declaration of War is expressed, I cannot think it altogether consistent with the Respect due to his Majesty, to attempt now, to justify a Convention, by which no Satisfaction was so much as stipulated, for those Cruelties and Barbarities the *Spaniards* had exercised upon his Majesty's Subjects, or for those ignominious Insults they had put upon the *British* Flag : And, I must look upon a

Am. 13 Geo. II. 1739.

Am. 13 Geo. II. 1739. *Speech Attempt to justify the Convention, as an Attempt to revive those Heats and Animosities that were raised in the Nation, by that most extraordinary Measure I shall call it by no worse a Name, lest I should be accused of falling into the Error I am finding fault with: I hope it has now met with the Fate it deserves, and which, for the Honour of Britain, I wish it may meet with: I hope it is fallen into eternal Oblivion; and I wish it could be rased out of every historical Record.*

‘ Having thus shewn, my Lords, what were the Divisions, Heats and Animosities, that have lately appeared amongst us, and having shewn that, by their very Nature, they must have all ceased, as soon as his Majesty declared War, I shall conclude with saying, that I believe the best Way to prevent their being renewed, is to forget that there were ever any such amongst us. Our Ministers have now changed their Measures: They have now entered into Measures, which the whole Nation approves of: Why should they now seek to justify those former Measures, which the whole Nation condemned? If they pursue with Vigour the Measures they have now entered into, the Nation seems willing to forget the Errors of their former Conduct: Why then should they now seek to brand, with the odious Names of Prejudices, Heats, and Animosities, the Objections which the People thought they had Reason to make to their former Conduct? This is doing what they can, to raise Heats and Animosities, instead of endeavouring to stifle them; therefore, in my Opinion, it was most imprudent to allow any such Words to have a Place in his Majesty’s Speech from the Throne; and, for this Reason, I must be against their being echo’d back to the Throne, by our Address.

Lord Hervey.

Lord Hervey.

‘ My Lords, the Word *Echo* is, I find, a favourite Term, which is generally made use of upon all such Occasions as the present, for turning into Ridicule, a Custom which has for many Years been established. I know, it is easy for one who has so much Wit at command, as the noble Lord who spoke last, to give a ridiculous Turn, to the most reasonable Custom that can be introduced; but I likewise know your Lordships Discernment to be so good, that you can easily distinguish between what is ridiculous in itself, and what is rendered so only by the happy Genius of him who has a Mind to explode it; and therefore, I need not say much in favour of a Custom which I think most reasonable, and which has met with the Approbation of many Years, and of several succeeding Generations. In private Life, it has always been reckoned one of the highest Degrees of Contempt or Disrespect,

respect, to take no Notice of what a Gentleman says, when his Discourse is particularly addressed to you : In public Life, I must think it is the same, and therefore I must think, it would be a Failure in that Respect which is due to our Sovereign, if we should, in our Address, omit to take notice of any one material Paragraph in his Majesty's Speech from the Throne.

Apr. 13 1739. II.

1739.

' Who it was, my Lords, that had the Honour to be consulted by his Majesty about the Speech he has now made to us, or who it was that advised him to insert that Paragraph, by which his Majesty recommends to us, to avoid Heats and Animosities, I do not know ; but, if his Majesty had thought fit to confer that Honour upon me, I should have advised the very same Thing ; and what has already happened amongst us, would, in my Opinion, have justified that Advice. There has, 'tis true, no Heats or Animosities happened this Day amongst us : There never do happen any such in our Debates ; but the Debate of this Day will, I am afraid, add fresh Fuel to the Heats and Animosities that still subsist without Doors ; and, if Lords would consider, that this is generally the Consequence of every Debate that arises in this House, I am convinced, we should not have so many of them as we have ; because, in this Case, I believe, no Lord would raise a Debate, by opposing any Proposition made by another, unless he thought the Honour or the Interest of his Country deeply concerned in the Question.

' I shall not dispute with the noble Lord that spoke last, whether the few Words objected to, dropt by Accident into the Motion made by my noble Friend, or whether they were inserted with Design. In either Case, I think, they ought not to have occasioned a Debate ; especially, at a Time when we ought not only to be unanimous, but to avoid the least Appearance of Discord. If they dropt in by Accident, the noble Lord who spoke last has acknowledged, they are of no Importance, and might therefore, for the Sake of Unanimity, have been agreed to without any dangerous Consequence. And, if they were inserted with Design, I cannot so much as suppose any other Design, than that of shewing a proper Respect to his Majesty, which no Lord ought to oppose. The noble Lord has, 'tis true, found out another Design : He supposes, that they were inserted on purpose, for justifying some Representation made to his Majesty. I do not know of any Representation that has been made to his Majesty, nor do I think there was the least Occasion for representing to him, that there have been Divisions amongst us : It is what he could not but know, by looking upon the Journals of either House of Parliament, which, I

1739.

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hope

Ann. 13 Geo. II. hope, either he or his Servants may do without any Offence :
 1739.

And we cannot, in Justice, suppose him so much unconcerned about what passes amongst his People, as not to know, that there have been great Heats and Animosities among them. None of his Servants, therefore, had the least Occasion to make any such Representation to him, and if any of them have made such a one, it was so far from being a Misrepresentation, that it has been confirmed, by every Lord that has spoke in this Debate. It is acknowledged on all Sides, that there have been Divisions, Heats, and Animosities in the Nation ; but, on one Side, it has been said, that they are all now put an end to, by his Majesty's Declaration of War, and that they were not between one Set or Party of the People and another, but between the whole Body of the People on one Side, and his Majesty's Servants or Ministers, as some always affect to call them, on the other.

My Lords, I am extremely glad to hear, that our Divisions are all put an end to, by his Majesty's Declaration of War : I wish it may be so. If it is, it shews his Majesty's Wisdom ; and his recommending to us, to avoid any such for the future, in my Opinion, shews his Goodness. But I do not know what the noble Lord means by Divisions between the whole Body of the People of one Side, and a few of his Majesty's Ministers of the other. He must be an unhappy Minister, that has no Set of Men, no Party in the Nation, that approves of his Conduct. I do not know that I ever read of such a Minister in our Histories, and, I believe, we have had as bad as any we have at present. But, for God's sake, what is this Measure, that has been approved of by a few of his Majesty's Ministers, and condemned by all the rest of the Nation ? If his Lordship means any of our late Negotiations, or even the late Convention, I must desire him to recollect, that they were all, not only approved of, but advised by both Houses of Parliament, as well as by all his Majesty's Ministers. I shall grant, that there was a Party in the Nation, as well as in each House of Parliament, that disapproved of those Measures ; and I do not pretend to find fault with them for so doing. Those that are not employed by his Majesty, may differ in Opinion with those that are ; and, thank God, they may, in this free Country, avow their Sentiments, and declare them openly. This I shall never find fault with : I hope we shall always retain this valuable Liberty : But I must find fault, when Heats and Animosities are mixed with that Liberty which is indulged us by our Constitution ; and this is what his Majesty most graciously, I think, advises us to avoid : This is what we are to declare we shall avoid, by the Address my noble Friend has been
 pleased

pleased to propose : and this, I think, is the least we can do, in return to that most gracious Advice his Majesty has vouchsafed to give us from the Throne.

Ann. 13 Geo. II.
1739-
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‘ I am far from saying, my Lords, that any Heats or Animosities have lately appeared in this House ; but there have been Divisions amongst us, and, by what the noble Lord has said of the late Convention, he has shewn, that those Divisions still subsist. I am sorry that Affair should now be brought into any of our Debates. I am certain, it is what we have nothing to do with, upon this Occasion ; but, when fault is found with any past Measures, or satyrical Things thrown out against it, it is natural, and even reasonable, in those who advised or approved of it, to say something in its Vindication. The Convention, my Lords, was attended with this Benefit at least, that it gave us Time to prepare for War, and to give Notice to our Merchants, to withdraw their Effects out of the *Spanish* Dominions ; and I must think, that *Spain’s* refusing to perform what was therein stipulated, is now a strong Argument for convincing us, that it was both honourable and advantageous on our Part. To which I must add, that it was not only ratified by his Majesty, but approved of by both Houses of Parliament ; and therefore, if the Respect that is due to our Sovereign does not, the Respect we ought to have for that Assembly, of which we are Members, ought now to prevent our giving it ill Names, or loading it with any invidious Epithet.

‘ I shall not now, my Lords, take upon me to determine, Whether it would have been happy for this Nation or no, to have had the Convention punctually performed on the Part of *Spain*. But I cannot think it would have been any Loss to us, to have had 95,000 *l.* of *Spanish* Money to have divided amongst our injured Merchants ; and I am sure, it would have been happy for the Nation, to have obtained Justice without a War, if such a Thing could have been any Way accomplished. This Consideration must, of itself, justify our endeavouring to obtain Satisfaction, by Negotiation ; and the Convention shewed, that our Hopes of succeeding in that Way, were not without some Foundation. Therefore, when I hear sarcastical Reflections thrown out against our pacific Measures, which, now War is declared, must be allowed to be quite out of the Question. I must suppose, that it proceeds from that Spirit of Division, which has shewn itself formerly even in this House, and which has, without Doors, often broke forth in violent Heats and Animosities.

‘ By his Majesty’s Declaration of War, I shall grant, my Lords, that this Spirit seems to be somewhat allayed ; but, I’m afraid, it is far from being extinguished. The same Spirit

Ann. 13 Geo. II.

1739.



Spirit that made some Part of the People shew such Heat and Animosities against those Measures his Majesty was pleased to take for preventing a War, will, I believe, prevail with them to find fault with every Measure his Majesty may be pleased to take, for bringing it to a happy and speedy Conclusion. The Misfortunes we may meet with, and some we must meet with, will be aggravated; the Advantages we may gain, and, I hope, we shall gain a great many, will be depreciated: In short, unless your Lordships begin to shew a good Example, I expect that every Step of his Majesty's Conduct in time of War, will be opposed, or misrepresented, as well as every Step of his Conduct has been in time of Peace. The Calm we now seem to enjoy, is not, I'm afraid, owing to the utter Extinguishment of those Flames of Strife and Contention, which too often prevail in this Kingdom, but to their wanting Materials to feed on. The War has been so lately declared: The Incidents that have happened, or could have happened, are so few, that the most discontented have, as yet, no room for shewing their Spleen against the Administration; but, from what has happened To-day, we have, I think, no Reason to conclude, that our Discontents or Divisions are at an end. No Fault can be found with the Declaration of War, no Fault can, as yet, be found with the Conduct of the War; but Fault must be found with something; therefore, we have this Day had the Conduct of our public Affairs for Twelve or Fourteen Years past examined into, and every Step of it, I think, condemned, tho' no Part of it any way relates to the Question now before us. For my Part, my Lords, I shall not give your Lordships the Trouble of entering into a minute and particular Justification of our Conduct, and of all the public Expences that have been incurred, during that long,--very long Period, as some have thought it: The Task would not be difficult; but it would be tedious, and, I think, unnecessary: Therefore, I shall only observe in general, that every Step of our Conduct, during that Period, has been approved by both Houses of Parliament; and every Article of our public Expence, has not only been approved, but provided for, by Parliament; consequently, as there have been several general Elections within that Period, I must think, that not only the Conduct of our public Affairs, but all the public Expence the Nation has been put to, has met with the Approbation of a great Majority of the People.

'We are now, my Lords, engaged in a War, and in a War too, that may prove a very heavy and dangerous one, especially, if, by our Divisions, some of our Neighbours should be encouraged to join with *Spain* against us, and our Allies

Allies discouraged from giving us any Assistance ; therefore I with some noble Lords would do what they acknowledge to be right : I wish they would forget all former Contentions, and heartily unite in every Thing that may tend to shew our Friends, as well as Enemies, that whatever Divisions there may be amongst us, whatever Faults we may find with the Conduct of our Ministers, in time of Peace, we will do nothing, nor say any thing, that may disconcert or interrupt them, in the Prosecution of a just and necessary War. If this had been the Case, I am sure no Part of his Majesty's Speech, nor any Part of the Address now proposed, would have been objected to ; for, suppose there were now no Divisions amongst us, nor any Heats or Animosities in the Nation, suppose there never had been any such, yet, I cannot think it would have been wrong in his Majesty now, at the beginning of a War, to caution us against Divisions, Heats, and Animosities, nor in any of his Ministers, to advise him to do so ; and far less would it have been wrong in us, to make a proper Return to that Part of his Majesty's Speech, by declaring in our Address, that we would take care to follow the Advice his Majesty had so graciously and so properly given. It is what has been often done, by the Sovereign, from the Throne ; and it is what this House has never failed to make a proper Return to ; therefore, if we should, upon this Occasion, neglect to do so, I should think, I am sure the whole World without Doors would think, it proceeded from that very Thing which his Majesty complains of in his Speech, and to which he most justly, in my Opinion, imputes the late, and otherwise unaccountable Obstinacy, or rather Contumacy of *Spain*. For this Reason, my Lords, I shall be so far from disagreeing with any Part of the Address my noble Friend has been pleased to propose, especially that Part, which some noble Lords have thought fit to object to, that if he had omitted to propose it, I should have stood up in my Place, and endeavoured to supply the Defect, by way of Amendment.

Ann. 19 Geo. II.
1739.

The Earl of *Scarborough*.

My Lords, although I have often had the Misfortune to find what I approved of, opposed by some Lords for whom I had a very great Esteem, yet, I never could allow myself to call that Opposition a Division, or to think that it proceeded from any Party-Prejudice, or private Discontent : and, I am sure, it cannot, with the least Justice, be said, that any late Opposition has, in this House, been carried on with Heat, or Animosity. I have been always so candid as to think,

The Earl of
Scarborough.

that

Ann. 13 Geo. II.
1739.

that if any Lord opposed what I approved, he did it, because he thought it was wrong; and, if he proposed any Thing in which I could not join, I have always supposed, he did it, because he thought it was right. This has always been my Way of Thinking, about the Conduct of those who differed from me in Opinion, and I hope it has been their Way of Thinking, about mine. Therefore, I cannot think there has been lately any Thing amongst us that could properly be called a Division, and I am sure, there has, of late, no Heat or Animosity appeared in any of our Debates. I have, indeed, observed great Heats and Animosities expressed, both within Doors and without, against the insulting Treatment we have, for many Years, received from *Spain*; but I was so far from disapproving, that I have always joined in such Heats and Animosities: I have always reflected upon the Insults offered us by *Spain*, with as great Indignation as any Man in the Kingdom, tho' I differed perhaps with some, as to the Method, or rather as to the Time of shewing our Repentment in a proper Manner, against the Conduct of that insolent and impotent Nation.

It is long since their Conduct deserved the highest and most immediate Repentment: It is long since we might, with Justice, have made them feel the most fatal Effects of our Vengeance; and whatever the natural Haughtiness of that Nation may make them suppose, the rest of *Europe* must be convinced, that our Forbearance has been owing to a Compassion for their Weakness, and not to any Dread of their Power. It was this, that made his Majesty resolve, by accepting of the late Convention, to give them a fresh Opportunity for seeing the Foolishness of their Conduct towards us, and for preventing, by a Submission, that severe Correction it deserved to meet with. But I am surprized to hear some Lords insist so strongly, and as it were triumphantly, upon that Convention's meeting with the Approbation of both Houses of Parliament. I believe, there were a great many, who approved of the Address proposed upon that Occasion, tho' they were very far from approving of the Convention. I remember, one of the chief Arguments insisted on in favour of that Address, was, that it did not imply an Approbation of the Convention. If such a Thing had been proposed, I believe, instead of meeting with the Concurrence of both Houses of Parliament, it would have been rejected by both, with Disdain.

I am convinced, that several Lords gave their Consent to the Address proposed upon that Occasion, because they thought it did not imply an Approbation of the Convention; and as I had the Honour to be so well acquainted with the Measures

Measures his Majesty had resolved on, that, if *Spain* did not soon yeild to a great deal more than was expressly stipulated by the Convention, I was thoroughly convinced, that a War would speedily ensue; therefore, tho' I did not approve of the Convention, nor of the Address that was proposed upon that Occasion, yet, I was against our doing any thing in this House that might hurry our Ministers into a War, before they had sufficiently provided for prosecuting it with Vigour; and, as a Resolution proposed in this House, towards the End of last Session, would have been a sort of Parliamentary Declaration of War against *Spain*, and consequently would have precipitated the Nation into a War, before we were sufficiently prepared, either for defending ourselves, or offending the Enemy; therefore, I was against that Resolution, tho' it was proposed and supported by several Lords for whom I shall always have the greatest Regard.

Ann. 14 Geo. II.
1739.

' So much I thought necessary to trouble your Lordships with, for explaining my Conduct last Session, lest it should be inferred from what has been said in this, that, if *Spain* had made the Payment stipulated by that Convention, I should have been for continuing to negotiate with them for eight Months, or one Month longer, and allowing them, in the mean time, to search and seize our Ships in the *American* Seas. This, my Lords, I should have been against, notwithstanding my having been against the Resolution proposed at the End of last Session; and, if this had happened to be the Case, it would, indeed, have made a Division among us; but then, it would have been such a Division as a noble Lord has represented: It would have been a Division between the whole People of the Nation on one Side, and a very few of his Majesty's Ministers on the other. About the time the Convention was concluded, there was, I shall grant, some sort of Dispute, tho' not properly a Division, about the most proper Time for declaring War against *Spain*. Some thought that it ought then immediately to be declared, while others thought that it was prudent to wait four Months longer. But, no Man thought, at least, no Man, Minister or other, dared to say, that, if *Spain* refused to make the stipulated Payment within the Time limited, or pretended to evade any longer settling the chief Point in Dispute between the two Nations, we ought not, even in that Case, to declare War, or begin Reprisals against them. About this, there never was any Dispute, much less a Division among us, and therefore, upon their failing to perform what they had promised, Hostilities were begun, and War at last declared, as I expected, with as great Unanimity among all Ranks and Degrees of Men, as any public Measure ever met with. For

Ann. 14 Geo. II.
1739.

this Reason, I cannot but disapprove of that Paragraph in his Majesty's Speech, which relates to Divisions, Heats, and Animosities; and much more must I disapprove of the Return proposed to be made to it in our Address. The former, in my Opinion, bears, and the latter confirms, an Insinuation, that is evidently and absolutely false. They both tend to insinuate, as if there were a Party among us, that with Heat and Animosity opposed and condemned our having declared War against *Spain*. If a Foreigner, who knew nothing of the Disposition of the People of the People of this Nation, were to read his Majesty's Speech, this I am convinced would be the Construction he would put upon the Paragraph found fault with; and in this Opinion he would be confirmed, by reading in our Address, the Answer proposed to be made to that Part of his Majesty's Speech.

' This, I say, my Lords, will be the Opinion of every Foreigner that reads his Majesty's Speech from the Throne, and our Address by way of return; and as it is not only a false Opinion, but likewise an Opinion that may be of great Prejudice to this Nation, I shall be against our saying any thing in our Address that may tend towards establishing, among Foreigners, a Belief in an Opinion so injurious to the People of this Kingdom, and so mischievous with regard to its Consequences in the present War,

' I have, my Lords, the Satisfaction to think, that no Man doubts of my Esteem for his Majesty's Person, or my Zeal for his Service; but I shall always be for shewing that Esteem, and testifying that Zeal, by declaring my Sentiments freely in every Place, and upon all Occasions, where my Duty calls upon me to do so; and, upon the present Occasion, I think, I am called upon to do so, by all the Ties of Honour, Loyalty and Friendship; because, I am convinced, his Majesty would not, in his Speech, have made use of any such Words as those now complained of, if some malicious Insinuations had not been made to him against those who have, with great Calmness and Decency, opposed some late Measures, for no other Reason, I believe, but because they thought them inconsistent with the Honour or Interest of their Country. As such Insinuations must tend towards giving his Majesty an ill Impression of those, whom I shall always look on as good Subjects, tho' they may sometimes differ with me in Opinion; therefore, I shall be against our doing any thing in this House, that may confirm such Insinuations; and for this Reason, I must be against inserting in our Address the Words or Expressions objected to, by some of the noble Lords who have spoke before me in this Debate.'

The

The Lord Chancellor.

‘ My Lords, as nothing is more necessary at the Beginning of a War, than Concord and Unanimity amongst ourselves; and as our Unanimity at present seems to be interrupted by a Misapprehension of what his Majesty has said in his Speech from the Throne, and likewise of what the noble Lord has been pleased to propose by way of Answer; I hope your Lordships will excuse my rising up, to endeavour to restore that Unanimity which I wish to see established, by explaining and removing that Mistake which, I think, has occasioned the present Interruption. The Lord Chancellor.

The Objections that have been made to some Part of the Address proposed, have, in my Opinion, my Lords, been occasioned by supposing, that the Heats and Animosities there mentioned, relate to the present Time, and to the late particular Measure of declaring War against *Spain*. Now, if your Lordships will but consider the Expressions themselves, which the noble Lord was pleased to make use of, in that Part of the Proposition he has made to you, which has been objected to, and the Expressions in that Part of his Majesty’s Speech to which they refer, you will see, that neither the one nor the other can be supposed to relate to the present Time, or to any particular Measure. The Expressions made use of by his Majesty in his Speech from the Throne, and by his Lordship in the Proposition he has made for an Address by way of Answer thereto, plainly refer to the Time past, and to Heats and Animosities in general, without the least Application to any particular Measure; and when this is maturely considered, I am of Opinion, no reasonable Objection can be made, either to his Majesty’s Speech, or to any Part of the Proposition now before you.

Upon the present Occasion, my Lords, I do not think it necessary for me to shew, what Sort of Heats and Animosities have been amongst us, or how, or between whom, our late Divisions have arisen. It is acknowledged by all, that there have been Divisions, Heats, and Animosities amongst us: Nay, they became so notorious, that even our Enemies took Notice of them, as appears by the *Spanish* Manifesto; and I am convinced they were, as his Majesty has told us, the chief Cause of that Obstinacy which *Spain* has of late Years shewn in all her Negotiations with us. Therefore, whatever these Divisions were, they must be allowed to be a good Foundation for that fatherly and tender Exhortation to Peace and Unity, which his Majesty has most graciously given us in his Speech from the Throne. Suppose our late Divisions had been between the People of one Side, and his Majesty’s Ministers or Servants on

Ann. 73 Geo. II. 1739. the other ; and that those Divisions had occasioned Heats and Animosities in the Kingdom, even such a Division, if any such could be, would be unhappy for the Nation ; and as his Majesty is the political Father of us all, as he is the Father of his Servants, as well as of his Subjects, it became, in that Case, necessary for him, especially at the Beginning of a foreign War, to endeavour to reconcile them to each other, by recommending Peace and Unity to both ; at least it must, I think, be acknowledged, that it was gracious in him to do so, and that it shewed his Concern for the general Welfare of his Kingdoms.

But, my Lords, I am far from being of Opinion, that any such Division can ever exist, in which the whole People are of one Side, and the King's Ministers, or a few of them only, of the other. I believe, the most hated or despised Administration that ever was in this Kingdom, had a great many Friends among the People, and a great Party that approved of their Measures ; and therefore, I cannot approve of the Custom mentioned by a noble Lord in this Debate, of making use of the Words People and Administration as two opposite Terms ; I think it an invidious Sort of Distinction ; and therefore I must think, that the Custom is at all Times somewhat seditious. If any one has of late made use of this Distinction, and endeavoured to recommend the Use of it to others, the doing so could proceed from nothing but Heat and Animosity ; for none of his present Majesty's Ministers have done, or advised any Thing, that could give the least Room for thinking, that they were in any Interest opposite to that of the People. Gentlemen may differ in their Opinions ; and those who have the Honour to serve his Majesty, may think that for the Good of their Country, which others think not to be so ; but those who differ from them, ought to judge of their Conduct with that Candour and Charity, which the noble Lord who spoke last has recommended, and which, I am convinced, is a Way of Judging practised by him upon all Occasions. If every Man, both within Doors and without, would follow his Lordship's Example, we should have no Heats or Animosities in the Kingdom, nor would any one suppose such a Division, as that of the whole Body of the People upon one Side, and a few of his Majesty's Ministers upon the other.

Such a Division, my Lords, can never, as I have said, exist in any Country, and much less in this than any other, unless our Constitution should be first overturned, or at least suspended ; and I am sure we have lately had nothing like it. We had indeed, a very great Division amongst us, but last Session of Parliament : Some were for an immediate War against *Spain*, notwithstanding the Convention they had agreed to, and others were for waiting a few Months longer, to see
if

if we could obtain Justice by peaceable Means. His Majesty's
 Servants knowing the great Regard he had for the Trade and
 Welfare of his Subjects, were very generally, I believe, of the
 latter Party, which was so far from consisting of his Majesty's
 Ministers only, that it had a Majority in both Houses of
 Parliament, and consequently, by our Constitution, we are
 obliged to suppose, that it had a Majority among the People.
 Notwithstanding this Majority, they supported their Opinion,
 both within Doors and without, with great Moderation and
 Tranquillity; but I cannot say so of the other Party. In
 this House, I shall grant, there was no Heat or Animosity
 appeared; but the Party without Doors did break out into
 Heats and Animosities, and endeavoured, as is usual upon all
 such Occasions, to support by Noise and Clamour without
 Doors, what they could not support by Reason and Argu-
 ment within. This Division, and these Heats and Animo-
 sities, are now, 'tis true, at an End; but others may arise,
 and therefore it was very natural, and even necessary, I think,
 for his Majesty, the next Time he met his Parliament, to
 recommend Unity and Concord, and to exhort us to avoid Heats
 and Animosities. He does not so much as suppose there are any
 at present subsisting: He gives us only a gracious Exhorta-
 tion to avoid such in Time to come: This surely can never
 be taken amiss in any Country, or at any Time; and much
 less in a free Country, where Divisions, Heats and Animo-
 sities are apt to arise, notwithstanding the utmost Caution;
 and at the Beginning of a heavy and dangerous War, when
 they may be of more pernicious Consequence than at any
 other Time.

Having thus explained to your Lordships, what is meant
 by that Paragraph in his Majesty's Speech, in which Divi-
 sions, Heats, and Animosities are mentioned, I hope it will
 appear, that no reasonable Objection can be made to it: I
 hope it will appear, that it is only a general Exhortation to
 Peace and Unity; and shall we so much neglect, or rather,
 in my Opinion, condemn such a kind, such a gracious, and
 such a fatherly Exhortation, as not to make the least Return
 to it in our Address? What the noble Lord has proposed,
 is, I think, the least Return we can make: His Lordship's
 Proposition, like what his Majesty has said in his Speech, does
 not relate to the present Time, nor to any particular Divi-
 sion that has been amongst us. It is only a general Decla-
 ration, that we will promote Harmony and Unanimity in
 Time to come. This is, I hope, what every Lord in this
 House is resolved on, and therefore, I hope, no Lord will
 oppose our giving his Majesty and his Allies the Satisfaction,
 and his and our Enemies the Mortification, to declare it

Ann. 13 Geo. II. in the Terms proposed, or in more express Terms, if such
1739. could be contrived and were thought necessary.

E. of *Winchelsea*.

Earl of *Win-*
chelsea.

‘ My Lords, If I were to consider his Majesty’s Speech from the Throne, as a Speech really framed by himself, and without the Advice of any of his Ministers, I should be apt to join with the noble Lord that spoke last, in looking upon it as a fatherly and tender Exhortation ; but it is well known, that in this House we always do, nay, we ought to consider his Majesty’s Speech as the Speech of his Minister ; and, when I consider it in that Light, I cannot look upon that Part of it, which relates to Divisions, Heats and Animosities, as a friendly Exhortation ; I must look upon it as a designed Reflection upon those, who, not only last Year, but for many Years preceding, took the Liberty to condemn his tame Submissions and pacific Negotiations, which have, as was long since foretold, at last ended in an open and declared War ; and that at a Season, which, if we consider the present Situation of Affairs in *Europe*, we must allow to be the most unlucky for this Nation, of any we could have chosen, ever since *Spain* began to insult and plunder, and he to negotiate and submit.

In this Light, I say, my Lords, I must consider it, and I consider it in this Light, because we have of late Years had no Appearance of any Division, much less of any Heat or Animosity, but what has been occasioned by his Measures. We have lately had none of those Party Divisions amongst us, with which this Nation used formerly to be perplexed : The *Jacobite* Party is now, thank God ! entirely broke : Whig and Tory, High Church and Low, have been many Years ago quite forgot : We are all united in a Resolution to support and preserve our Constitution under the present happy Establishment : Nothing like a Division has for many Years appeared amongst us, but what was occasioned by some Ministerial Measure, which was thought ruinous to the Trade, or inconsistent with the Honour of the Nation ; and in such Circumstances, when the Minister comes and tells us, That Heats and Animosities have been, with the greatest Industry, fomented throughout the Kingdom ; and that our Divisions have encouraged our Neighbours to use us ill ; and that we ought to avoid all such for the future ; I must look upon it as a designed Reflection upon those, who have found fault with any of his Measures in Time past, and as an imperious Sort of Exhortation to approve and submit blindly, in Time to come, to every Thing he may vouchsafe to propose to us, and to every Measure he may think fit to pursue.

This

This, my Lords, is the Construction that must be put upon what is said in his Majesty's Speech about Divisions, Heats, and Animosities, by every Lord who considers the Speech in that Light, in which alone it ought to be considered in this House. This is what could not but be foreseen by those who advised the Speech; and therefore, if they have this Day heard any unwelcome and galling Truths relating to their past Conduct; if their past Measures have not been allowed to sink into that Oblivion they deserve; those who advised the Speech have themselves only to blame; for when an Opposition, that Experience as well as Reason has justify'd, is called Animosity, and is assigned as the Cause of that Misfortune, which evidently proceeded, not from the Opposition, but from the Measures that were opposed, it became necessary for those who had joined in that Opposition, to justify their Opposition, by exposing and again demonstrating the Weakness of those Measures they had opposed. The Disagreement therefore that has this Day happened amongst us, and which ought, certainly, by all Means to have been prevented, is not owing to those who have this Day found fault with past Measures, but to those who most unnecessarily, I shall not say arrogantly, revived the Memory of them, by giving the invidious Names of Division, Heat, and Animosity, to the Opposition that was made to them.

From this Consideration, every Lord that has this Day found fault with any of our late Measures, must be justified, and from this likewise, I hope, I shall be justified, in taking some Notice of what has been this Day said in favour of our late Convention with *Spain*. The Disadvantages and Dishonour of that Treaty were last Session so fully exposed, that I should not have given your Lordships the Pains to hear that Treaty again mentioned, if some Arguments had not been now advanced in its Vindication, that neither were, nor could be made use of, when it was last Year under our Consideration. We have been told, my Lords, that this Treaty now appears to have been an honourable and advantageous Treaty for this Nation, because *Spain* refused to perform it on their Part. So far otherwise, that their refusing to pay the 95,000 *l.* confirms what was said last Year by those that opposed our Approving of the Treaty. They then foretold, that *Spain* would not pay a Shilling of that Money, unless our *South-Sea* Company first paid them the 68,000 *l.* they demanded; and the Event has confirmed what was then prophesied; which shews, that the Treaty was really more dishonourable, than what upon the Face of it appeared; tho' even this pretty clearly appeared, by the King of *Spain's* Declaration, which our Negotiators had, it seems, accepted of as the Condition upon which his very Signing,

Ann. 13 Geo. II.

1739.

Ann. 13 Geo. II. Signing, and much more his Performing of that Treaty, was to be proceeded on. Their insisting upon our receiving that Declaration, shewed the Contempt they had of our Conduct, and their adhering so closely to what they thereby declared, was only a farther and a stronger Manifestation of that Contempt.

1739.

Another new Argument this Day made use of in favour of that Convention, is, that it was necessary for us to prepare for War before we declared it ; and that the Convention gave us Time to be prepared for War, and to send Notice to our Merchants to remove their Ships and Effects out of the *Spanish* Dominions, which we could not otherwise have had. This Argument, my Lords, is built upon the Supposition of a Fact, which every one knows to be false. Did we make the least Preparation for War during the *four* Months the Convention held us in Suspence ? Did we in all that Time give the least Hint to our Merchants to withdraw their Effects ? It is well known, that we did not begin to prepare for War till the Month of *June* last, nor did we send Notice to our Merchants to withdraw their Effects, till the Month of *July* ; and might not this have been done in the Month of *June* or *July* was a Twelvemonth, as well as in the Month of *June* or *July* last ? Certainly it might. Nay, we can always, in a Month's Time, prepare sufficiently for commencing a War against *Spain* alone, and therefore have no Occasion for entering into a dishonourable Negotiation, much less for concluding a dishonourable Treaty with them for such a Purpose.

As these, my Lords, are the only new Arguments I have this Day heard in favour of that most dishonourable Treaty, I shall give your Lordships no farther Trouble upon a Subject, that I always mention with Reluctance, because the least Mention of it must, I think, be grating to every Man that hears it, if he has any Regard for the Honour or Interest of this Kingdom. What I have said, when added to what has been before said upon the same Subject, will sufficiently justify the Opposition that was made to it ; therefore, I must think, it was wrong to advise the Inserting of any Thing in his Majesty's Speech, that might seem to cast a Reflection upon that Opposition ; and consequently, I must be against our enforcing, and, as it were, redoubling that Reflection, by any Words in our Address. I know, that the Custom of *echoing* back (I must, my Lords, make use of the Word *Echo* ; if I knew a more burlesque Word, or a Word that more strongly shewed my Contempt, I would certainly use it) I say, my Lords, I know that the Custom of *echoing* back his Majesty's Speech from the Throne, in the Address of this

this House, is of some Standing ; but I likewise know, that Ann. 13 Geo. II. Ministers have, ever since that Custom began, had more Influence in Parliament, than they had in former Reigns, and more, perhaps, than they ought to have in any Reign. Such a Custom is rather a Sign of Complaisance to the Minister, than of Respect to the Sovereign. The greatest and best Sign of Respect we can shew to the Sovereign, is Sincerity ; and, if this Custom continues for any Time longer, our Sincerity to our Sovereign will, I am afraid, be lost in a fawning Complaisance to his Minister.

1739.

Let us, therefore, my Lords, take this Opportunity, which I think a good one, to interrupt the Custom, lest it should, as other Customs have done, become common Law, which the Lawyers say is Common Reason, even tho' it be inconsistent with the Reason of every Man but a Lawyer. But, if your Lordships are resolved that your Address shall be a compleat and faithful *Echo* to the Speech, I think, you should go farther than has yet been proposed : I think you should take special Care to declare it as your Opinion, that the Heats and Animositities fomented amongst us, has been one of the chief Encouragements to the Court of *Spain*, to hold such a Conduct towards this Nation, as to make it necessary to have Recourse to Arms ; because, this I take to be, with Regard to the Minister, the most important Sentence in the whole Speech ; and therefore ought not, surely, to be neglected by those, who think that every material Sentence in his Majesty's Speech ought to be most dutifully *echoed* back to the Throne by the Address of this House.

Duke of Argyle.

* My Lords, I must begin what I have to say to your Lordships upon this Occasion, with observing, that I am very much disappointed in the Hopes, I with Pleasure entertained for some Time, before we met in this House. Our Situation before this Session opened, was very different from what it was before the Opening of the last. We had then just received the sorrowful Tidings of a new Convention between us and *Spain*, which before we saw it, had great Encomiums bestowed upon it, by those who had been concerned in the Negotiation. This new Treaty was to put a happy and honourable End to all our Differences with *Spain* : It was to give Reparation to our injured Merchants, and to procure Satisfaction to the Nation, and Security to our Trade in Time to come : In short, it was to give us all we wanted, and more than we could have expected. But these Encomiums

Ann. 13 Geo. II.
1789.

I could put no Faith in. I knew the Haughtiness of those we had been treating with ; I knew the contemptible Opinion they had of the Persons they treated with ; and therefore, I expected, that this new Treaty would resemble some former Treaties we have lately made, in nothing so much as in Dishonour and Disgrace. This made me expect to see, during that Session, great Contention within Doors, and great Murmuring and Discontents without ; and in this I was not disappointed.

But before the Opening of this Session, my Lords, we were in a very different Situation. Our Negotiations, with *Spain* at least, were, thank God ! at an End. A War was actually declared, which was what all, but a very few amongst us, had long and ardently wished for ; and this Nation was in a Way, by which we have never failed doing ourselves Justice, when our Arms were prudently and vigorously conducted. From this Situation, I expected to see nothing, during this Session of Parliament, but Concord and Unanimity within Doors, and Joy and Acclamations without. I expected to hear nothing of past Measures, especially from those who could not be insensible of the Discontents their past Measures had occasioned. I expected nothing but a most cordial and unanimous Concurrence in proper Measures for enabling his Majesty to convince our Enemies, that we are better Fighters than Negotiators ; and that though they had for many Years eluded the Force of our Rhetoric, they should be unable to elude, for as many Months, the Force of our Arms.

These, my Lords, I say, were my Expectations before the Opening of this Session of Parliament, and in these, I can assure your Lordships, I took great Delight. But those who had the Advising and Drawing up of this Speech now under our Consideration, have, I find, taken the very first Opportunity to disappoint me in my Hopes. Instead of applying to us in a modest, prudent, and conciliating Manner, for those Supplies that may be necessary for carrying on the War ; they have begun with throwing unjust and ill-grounded Reflections upon their Country, and upon all those that oppose the fruitless and destructive Measures they took for preventing it : Measures, which every one foresaw would be fruitless, before the Event shewed them to be so ; and Measures, which, in the mean Time, ruined the Trade, exhausted the Treasure, and exposed the Character of their Country.

This, my Lords, to me looks as if they were more solicitous about justifying their Pacific Measures, than they are about meriting the Approbation of their Country as to their Warlike ; and this, I must say, is but a bad Omen of our future Success, if they be entrusted with the Conduct of the War ; for
nothing

nothing can contribute more to the Justification of their late Pacific Schemes, than an unfortunate Issue of the War we are now engaged in.

Ann. 13 Geo. II.

1739.

I shall grant, my Lords, that an Advice or Caution against Divisions, Heats, and Animositities, has been often repeated to us in Speeches from the Throne; and I do not at all wonder at it, for nothing is so like one Minister as another Minister. Ministers must always be, they ought to be, the Advisers of the King's Speech to his Parliament. As great a Man, and as good a Judge of our Constitution, as ever sat in this House, often gave it as his Opinion, that if Ministers were not, they ought to be the Advisers of every Speech the King makes from the Throne, and were answerable for every Expression made use of upon such Occasions; therefore we are not to be surprized at the frequent Repetition we find of this Caution against Heats and Animositities; for Ministers are apt to look upon every Opposition to their Measures as an Animosity; and peevish Ministers often prevail with their Master to declare it so from the Throne; but however this may serve the Peevishness of a Minister, it is of great Disadvantage to the Crown, because it engages the King in the Party with his Minister, which is very seldom either the honestest or most numerous Party in the Kingdom.

For this Reason, my Lords, I shall never think it very dutiful in a Minister to put such a Caution in the Mouth of his Sovereign; and to put such a Caution or Advice into the King's Speech, at a Time when there neither is, nor has been, any Division, Heat, or Animosity, in the Kingdom, but such as have been occasioned by his Measures, I shall always think, in some Degree, criminal. In former Reigns, particularly in King *William's* Reign, there was some Reason for the Sovereign's giving a Caution to his Parliament against Divisions, Heats, and Animositities; because there were contending Parties in the Kingdom, which no way proceeded from any public Measures pursued by the Ministers: but, in this Reign, there have been no such Parties; and yet, these Exhortations have been oftner made use of in this Reign, than in any former: I think they have been in the Speech at the Opening of every Session since the famous *Excise Scheme*, except the first Session of this Parliament, when the Complexion of the other House was not perhaps so well known as it was soon after.

Who was the Author or Drawer-up of the Speech now under our Consideration, I do not pretend to know; but in this House, my Lords, it is certain, we are not to say, the King was: We must suppose it was some of his Majesty's Ministers; and, considering there is now the greatest Unanimity that, I believe, ever was in this Nation, considering there has

1739.

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Ann. 13 Geo. II.
1739.

not lately been any Division, Heat, or Animosity in the Kingdom, unless that Opposition be called so, which was made to their late Pacific Schemes, I cannot think it was right or modest in them, to put those Expressions in his Majesty's Speech, which are now found fault with. The noble Lord who spoke last but one, says, they do not relate to the present Time, or to any particular Measure. I must beg Pardon to differ from him, tho' I am far from pretending to be so good a Judge of Language as he is. The Expressions both in the Speech, and in the Address proposed, plainly relate to the present Time. His Majesty says, *the unhappy Divisions amongst my Subjects, are the only Hopes of the Enemies to my Government*: Do not these Words, does not the Word, *are*, in particular, relate to the present Time? Again, with regard to the Address proposed, can we with any Propriety say, that nothing shall be wanting on our Part to heal up our Divisions, if there are none such now subsisting in the Kingdom? Can we say, that his Majesty had *any Occasion* to repeat his Admonitions, if our Divisions are all entirely healed up, and no such thing as any Heats or Animosities in the Kingdom? As to the Measures, my Lords, which those Expressions were designed to relate to, I shall not pretend to determine; but I know of no public Measure that has been lately opposed with any Sort of Warmth, but our Negotiations with *Spain*, and the Convention, that was the unhappy Issue of those Negotiations; and I cannot think it right to say, that those who opposed these Measures, or indeed any Measures, were industrious Fomenters of Heats and Animosities, which is expressly said both in the Speech, and in what the noble Lord has proposed to be our Address by way of Answer to that Speech. In this Country, and by our Constitution, whoever thinks any public Measure inconsistent with the Happiness of his Country, has a Right, nay, he is in Duty bound, to take every legal Method he can think of, to warn the People of their Danger: He is not, for that Reason, to be called a Fomentor of Heats and Animosities; No man will call him so, but a peevish assuming Minister, who, by a long Possession of too much Power, begins to think, that no Man in the Kingdom ought to oppose his good Will and Pleasure.

I must likewise observe, my Lords, that I differ from the same noble Lord in another Thing he was pleased to advance. I must think, that a Division between the People of one Side, and the Ministers of the other, is such a Division as may exist, even in this Country. I shall grant, that Ministers must always have a Party for their Support; but when that Party consists of Men that list themselves in the Minister's Party, not because they approve his Measures, but be-
cause

case they receive his Pay, I cannot look upon them as any Part of the People: I must look upon them, as well as him, as the Enemies of the People; and the more of them he has in his Pay, the more criminal he must always be. If such a Minister and such a Party should ever happen, to our Misfortune, to exist in this Kingdom, they would, it is true, be the King's Subjects; but, like other Criminals, they would be such Subjects as ought to be hanged. I shall also grant that, whilst our Constitution remains entire, no such Minister can long stand his Ground in this Kingdom; because, if our Parliament should be allowed to sit, and if both Houses should continue as incorrupt as, I hope, they are at present, such a Minister would soon, by a Parliamentary Prosecution, be brought to what he deserved: But we know that some Ministers have found Means to govern, or rather to oppress the Nation for several Years, without any Parliament at all; and others have done the same Thing, by means of a Pensionary Parliament. Therefore, such a Division may exist even in this Country, though it has never yet long existed: These over-grown Ministers have, generally hitherto, fallen a Sacrifice to their own Insolence and Ambition, soon after the Body of the People declared against them; but the Misfortune is, that the Sovereign has sometimes been overwhelmed in the Ruins.

I shall always, my Lords, be ready to judge charitably of other Mens Conduct, either in public or private Life. I shall always be ready to suppose, that Men act from right Principles, and that they at least think they are doing what is right; but this Rule can take Place only in Cases of a disputable Nature. If a Highway-man or Pick-pocket should tell me, that he thought he did People a Service by robbing them or picking their Pockets, or by holding their Hands and preventing their being able to defend themselves, or secure the Villains that plundered them, I believe no Charity would oblige me to believe such a one to be an honest Man; and much less would Complaisance prevail with me, or a Reward induce me, to call him so. In public Life, it is the same: When a Minister engages in no Measures but what may be supposed to be for the Public Good, Charity may induce me to believe, that he thinks he is doing right, tho' I differ from him in Opinion; and such a Minister, tho' his Measures be found fault with by some, yet he may depend upon having always a great Part of the People of his Side; but when a Minister engages in such Measures as evidently tend to the Ruin of his Country, there is no Room for Charity, one must believe him to be either an egregious Fool, or an arrant Knave.

Ann. 13 Geo. II.

1739.

This, my Lords, must be every honest Man's Way of judging, in Cases that admit of no Dispute ; but, even in Cases that are disputable, tho' Charity obliges me to believe that Ministers think their Measures calculated for the Good of their Country, yet, if I think otherwise, I am obliged to oppose them, and may take such legal Methods as I think fit, to prevent or defeat them, without deserving to be called a Fomenter of Heats or Animositities. This was the Case, with regard to the late Convention ; It was thought, by many, to be a most scandalous and destructive Treaty : I thought so as soon as I saw it : I think so still ; for I do not think myself in the least included by the side-wind Approbation it met with. A Treaty's being approved by a Majority, in Parliament, does not oblige the Minority to approve of it. Your Lordships have all a Right to shew that you disapprove of what meets with the Approbation of the Majority, and to leave a Testimony of your Disapprobation upon Record, Nay, even a future Parliament is not obliged to approve of what, perhaps, met with a very general Approbation in the preceding. The Treaty of *Utrecht* was approved of by a Majority in both Houses of Parliament. I remember, I then disapproved of it, and gave my Sentiments very freely in this House against it ; and I remember the Reward I met with for so doing. That very Treaty was in a future Parliament, so highly disapproved of, that some of those who had the chief Hand in making it, were punished by Parliament ; and others had, perhaps, been more severely punished, if they had not fled from Justice. This, my Lords, may perhaps be the Fate of the Convention in some future Parliament, tho' the Father of it seems now extremely fond of his Child ; for I cannot but look upon his Majesty's Speech, and the Address now proposed, as a second Approbation of that Convention ; I must think them designed as a new Triumph over those that opposed it, which can give no great Joy to the Nation, whatever it may do to the Father of the Convention ; and therefore I wish that, in order to make his Country rejoice as well as himself, he would hereafter take as much care to triumph over those that broke it, as he now takes to triumph over those that oppose it.

This second Approbation, this new Triumph, I should have been easy about, I should have given myself no Trouble in opposing it, if I had not thought it an Encroachment upon the Constitution of my Country, and an Imposition upon my Royal Master. I think it a most dangerous Encroachment upon the Freedom of our Constitution, to have the legal Opposers of any public Measure represented as Fomenters of Heat and Animositities, and Promoters of Divisions among the

the People. If they had been guilty of any illegal or violent Practices, there might have been some Room for giving them such hard Names ; but, as no such Practices have been lately attempted, it must be allowed, by every one who understands our Constitution, to be a downright Misrepresentation ; and it is a most dangerous Imposition upon our Sovereign, to make him the Author of such a Misrepresentation. I must likewise look upon it as a most dangerous Imposition, to make him believe, that there are unhappy Divisions, or any Divisions, amongst his Subjects, from whence his Enemies can have the least Room to hope for Success. I wish they may have no other Foundation to build their Hopes on ; for, if they have not, they will soon see that they have nothing to hope for, but from his Majesty's Justice and Moderation.

Whatever Disputes our pacific Measures occasioned, and these were the only Disputes that can be said to have produced any Divisions, or any Thing like Heats or Animosités amongst us, they are all now happily ended by his Majesty's Declaration of War. That Declaration, my Lords, I must join with a noble Lord that spoke some Time ago, in applauding. I think it is extremely right : It is well and strongly worded : The Facts are well chosen, and the Thoughts expressed with great Energy ; but I must observe, that it is a Sort of Summary of the Arguments made use of last Year against the Convention, and Part of it, I believe, expressed almost in the very Words of the Protest signed by many of your Lordships upon that Occasion, and entered upon the Journals of this House, as a Testimony to Posterity, of your having disapproved of what was then agreed to by a Majority. This Declaration, my Lords, has given full Satisfaction to every Man that was displeased with our former pacific Measures ; and surely, no Man can suppose, that it is disagreeable to those that advised it. It is therefore unjust to say, that there are any Divisions in this Nation : It was wrong to say so to his Majesty : It was more wrong to advise him to say so in his Speech from the Throne ; and it would be still more wrong in us to confirm that Misrepresentation, by any Sort of Insinuation in our Address.

War, my Lords, was what the whole Nation, except a very few, long since desired. The Few that were against it have done what was their Duty : They have yielded to the general Voice of their Country ; and the War is now declared. I have already said, and I must again say, that I thank God for it ; for I think it a most providential War for this Nation. It could be nothing but Providence that could so harden the Hearts, or rather blind the Understandings of the *Spaniards*, as to make them refused or neglect to perform, on their Part, a Treaty which was both honourable and advantageous

Ann. 13 Geo. II.
1739.

advantageous for them, but most inglorious and destructive for us. To us it would have been most unlucky, if they had paid the Sum stipulated by that Treaty. It was a Providence most propitious to this Nation, that put them into a Humour to hold us in such Contempt as to refuse making that Payment, which they had so solemnly promised; and as Providence has been favourable to us in forcing us into the War, I hope it will be as favourable to us in the Prosecution. It is hardly possible the Event should be unfortunate for this Nation, unless we render it so by our own Conduct; and as an uncorrupt and independant Parliament is the best Check upon a Minister's Conduct, I shall look on it as a bad Omen of our future Conduct, if we should, in this first Session, after the Commencement of the War, shew so much Complaisance to any Minister, as to confirm a Misrepresentation made by him to the Crown, especially as that Misrepresentation is of such a Nature, that, if it be believed, it must render our Enemies more obstinate, and our Friends less ready to join in any Alliance with us.'

The Lord Chan-
cellor.

'The Lord Chancellor then again rose up and observed, That although an Objection had been made to some Part of the noble Lord's Proposition for an Address, and a long Debate had ensued, yet no Motion had been regularly made for an Amendment; therefore, he thought it his Duty to take Notice, that if they insisted upon their Objection, it would be necessary to mention the Words to be left out, and to think of some Words to be put in their Stead; after which the Question he was to put, would be, Whether the Words proposed to be left out should stand Part of the Motion.'

The Lord Bathurst.

The Lord
Bathurst.

'My Lords, the Words objected to, have been already mentioned, and I do not think it necessary to propose any Words to be put in their Stead, till the Question be first put, Whether or no they shall stand Part of the Motion. If that Question be carried in the Negative, it will then be Time enough to think, whether any, and what Words ought to be inserted in the Room of those left out. This, I think, my Lords, is the Parliamentary Way of Proceeding; and the Objections have been already so fully explained, and the Reasonableness of them so strongly enforced, that I think it unnecessary for me to add any Thing further upon the Subject. What the next Question may be, I shall not pretend to say, nor is it necessary I should. Perhaps it may be, To Address his Majesty to know who advised him to put into his
Speech

Speech that Paragraph, which has been found fault with in this Debate. Even this would be Parliamentary ; but whether your Lordships will think proper to go so far, I do not know. However, my Lords, to obviate the present seeming Difficulty, I shall make you the Motion for an Amendment, in Form, thus : That the Motion made by the noble Lord, should be amended by leaving out the Words, *That it gives us inexpressible Concern*, &c. as far as the Words, *That we are determined*. —————

Ann. 13 Geo. II.
1739.

The Earl of *Illa*.

‘ My Lords, the noble Lord upon the Wool-Sack did not find fault with your Lordships Manner of Proceeding : He only mentioned what was proper to be done ; and when there is any Defect or Omission as to the Form of your Proceedings, it is his Duty to acquaint you with it, and to inform you of what ought to be done. I shall grant, it is not absolutely necessary to mention before-hand, whether any, and what Words are to be put instead of those proposed to be left out ; but it is usual, and even Candour seems to require it, because from thence, several Lords may determine how to vote upon the first Question.

As to the Words objected to, I cannot, for my Part, see the least Occasion for leaving them out. I even think it necessary to keep them in, I shall admit, my Lords, that the late Conduct of *Spain*, especially their Non-performance of what they promised by the late Convention, has rendered us unanimous for War. But War or no War, was not the only Dispute or Division amongst us. There have been many others, some of which still subsist ; and whatever there may be within Doors, I am certain there are still great Heats and Animosities without. Are there not seditious Libels now printed and dispersed ? Are there not malicious Stories spread against the Government daily ? Sometimes it is said, That we are not yet in earnest as to the War : At other Times it is said, That, notwithstanding our Declaration of War, we dare not strike a Stroke. Many such false and scandalous Opinions are with great Industry propagated. All the Measures of our Government are misrepresented to this very Day. Even the Proceedings of this House are libelled, not only in Conversation, but in Print. Is not every Lord sensible of this ? Do not your Lordships all know it ? And in such Circumstances, was it not extremely proper for his Majesty to caution us against Divisions, Heats, and Animosities ? Will it not be necessary for us to declare in our Address, That we shall endeavour

Ann. 13 Geo. II. endeavour to avoid adding Fuel to the Heats and Animosities
 1739. without Doors, by our Disputes and Divisions within ?

Division in
 the Question.

The Question was then put, and passed in the Affirmative, Contents 68, not Contents 41, and the Address presented the next Day, was conceived as follows :

Lords Address.

Most gracious Sovereign,

‘ We your Majesty’s most dutiful and loyal Subjects, the Lords Spiritual and Temporal in Parliament assembled, beg Leave to return your Majesty our sincere and humble Thanks for your most gracious Speech from the Throne.

The great Regard, which your Majesty has expressed for the Sence of both Houses of Parliament, in your Proceedings with the Court of *Spain*, is a Continuance of that Royal Goodness, and Concern for the true Interest of your People, which we have so often experienced ; and your Majesty’s Desire to have the Advice and Assistance of your Parliament, as early as possible, in this important Conjunction, is a fresh Proof of your real Confidence in your faithful Subjects.

The Justice and Necessity of the War, which your Majesty has been pleased to declare against *Spain*, must be as demonstrable to all the World, as the violent and intolerable Methods practised by that Nation, to interrupt and distress the Navigation and Commerce of these Kingdoms, are notorious ; and it is the highest Aggravation of this offensive and inexcusable Conduct, that it has been obstinately pursued, in Breach of the most solemn Engagements, and in Defiance of the highest Obligations of Friendship and good Offices. But since *Great Britain* has been thus unavoidably called forth to Arms, we esteem it our peculiar Felicity, that we have a Prince upon the Throne, who, with paternal Tenderness, joins in the just Resentment of an injured Nation ; and whose Magnanimity and Steadiness are equal to the glorious Cause, in which he is engaged.

On this Occasion, the unfeigned Tender of our Lives and Fortunes is no more than is due to your Majesty, and our Country ; and we do, from the Bottom of our Hearts, give your Majesty the strongest Assurances, that we will zealously concur in all such Measures, as may forward your Preparations, and enable you to carry on the War with that Spirit and Vigour, which truly becomes the *British* Name.

Your Majesty’s Goodness in acquainting us from the Throne, that you have augmented your Forces by Sea and Land, pursuant to the Power given you by Parliament, with all the Moderation that was consistent with those desirable Ends, which

which you, in your Royal Wisdom, have pointed out to us, is an Instance of your Majesty's gracious Disposition to avoid bringing any unnecessary Burdens upon your People: And though we cannot flatter ourselves, that a State of War will not be attended with great Expences, and some Inconveniencies; yet, when it is undertaken, not to gratify the Views of restless Ambition, but to assert and maintain the Honour and just Rights of your Majesty's Crown and Kingdoms, we doubt not, but those powerful Motives, will induce all your Subjects to undergo with Cheerfulness, whatever is necessary in the Prosecution of it.

Ann. 13 Dec. II^e
1739.

It gives us inexpressible Concern, that there should be any Occasion for your Majesty to repeat your gracious Admonitions against those Heats and Animosities, which have been fomented throughout the Kingdom. As we cannot but most seriously lament the unhappy Divisions thereby occasioned; so nothing shall be wanting on our Part to heal them, by promoting that good Harmony and Unanimity, which are so necessary at this Juncture: And we trust in God, that any Hopes or Views formed by our Enemies upon such Circumstances, will be found utterly vain and groundless; since all your Majesty's Subjects must be convinced, that the Security of our Religion and Liberties, and the Safety and Prosperity of these Kingdoms, do entirely depend on the Preservation of your Sacred Person and Government, and of the Protestant Succession in your Royal House.

In this common Cause, Interest, as well as Duty, will make us unite; and we do with the greatest Zeal and Firmness, assure your Majesty, that we are determined, at the Hazard of all that is dear to us, to support it against all your Enemies both at home and abroad; imploring the Divine Providence to give Success to your Arms, and make them the happy Means of procuring a safe and honourable Peace.

His Majesty's most gracious Answer.

My Lords, I thank you for this Address so full of Duty and Affection to me, and of seasonable Assurances of your vigorous Support. The Satisfaction you express in the Measures I have taken, is very agreeable to me; and you may depend on my Endeavours to carry on the War in such a Manner, as may best answer the necessary Ends proposed by it, and the just Expectations of my People.

The Lords and Commons waited on his Majesty with the joint Resolution of both Houses of Parliament, as follows:

Feb. 23. both
Houses wait
on the King
with their
joint Resolu-

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Ann. 13 Geo. II.

1739.

Resolved by the Lords Spiritual and Temporal, and Commons, in Parliament assembled, That an humble Address be presented to his Majesty, as a dutiful Return to his gracious Desire of the Advice of his Parliament at this critical and important Conjuncture; and, as a farther Testimony of our firm Resolution vigorously to support his Majesty in the Prosecution of the War against *Spain*, humbly to beseech his Majesty, never to admit of any Treaty of Peace with that Crown, unless the Acknowledgement of our natural and indubitable Right to navigate in the *American* Seas, to and from any Part of his Majesty's Dominions, without being seized, searched, visited, or stopped, under any Pretence whatsoever, shall have been first obtained as a Preliminary thereto.

His Majesty's most gracious Answer.

My Lords and Gentlemen, I thank you for this dutiful Address, which is so agreeable to former Resolutions of both Houses of Parliament. Your unanimous and vigorous Support in carrying on the War, will be the best Means of procuring safe and honourable Terms of Peace; and you may rely on my utmost Care and Endeavour, to obtain effectual Security for the just Rights of Navigation and Commerce belonging to my Subjects.

Debate occasioned by a Message sent to the Commons only.

Feb. 28. The Earl of *Hallifax* having taken Notice of a * Message sent from the King to the House of Commons which had not been communicated to the Peers, spoke to the following Effect:

The Earl of *Hallifax*.

' My Lords, as no Lord can have a truer Regard for the Honour and Privileges of this House, than myself, so none can feel a warmer Indignation, whenever any Attack is offered them. To preserve this supreme Council of the Nation in the full Enjoyment of all those Rights derived to us from the Constitution of Parliament, is a Duty we owe ourselves, a Duty we owe our Posterity, a Duty we owe our Country. The Privileges of this House, and the Liberties of this Nation, are embarked on the same Bottom, and we cannot forego the one without endangering the other. Our Acquiescence under any Affront, (be it the Effect of Design, or be it the Effect of Neglect) may in future Times be looked upon as a tacit Resignation of our Rights, and be made a Precedent to the Dishonour of this House, and the Destruction of this Kingdom.

I cannot,

* See the Debate on this Message in the House of Commons in *Chant. Hist. Ann. 13 Geo. II. 1739. p. 232.*

I cannot, therefore, too earnestly recommend to your Lord- Ann. 13 Geo. II.
 ship's Consideration, his Majesty's Message to the House of Commons, which we find in the printed Votes of the 12th of this Month. The Words of the Message are these: 1739.

GEORGE R.

His Majesty, in further Prosecution of the just and necessary War, in which he is engaged, having under his Consideration certain Measures, which will occasion some extraordinary Expenses not comprehended in the Estimates laid before this House, hopes, from the known Zeal of his faithful Commons, that he shall be enabled to carry on the same, in the most effectual Manner.

And does his Majesty hope less from his faithful Lords, that, contrary to all Form and Custom, a Demand of Supply shall be made to the Commons singly, and your Lordships not have the least Cognizance of it? Is it to be supposed, we are not equally zealous for the Success of the present War? Equally desirous of supporting his Majesty in the just Prosecution of it? Or is our Concurrence upon all Occasions thought a Thing so sure, so certain, that the usual Forms of consulting us are to be thus thrown aside? Are we then fallen so low, have we so long flatter'd a Minister, that he can promise himself our easy Compliance, tho' he refuse us the common Civility due to us, and, answering for our Conduct, advise his Majesty to apply to the Commons, as the only Part of Parliament that has any Thing left in its Disposal? The Time has been, my Lords, that the Crown with Honour and Success has consulted this House; and sure I am, that I have many Lords now in my Eye, capable of giving such Advice to his Majesty, as would tend to the Glory of his Reign, and the Welfare of his People.

I am sorry, my Lords, I cannot charitably suppose, that this Contempt of us proceeded from a Mistake and Oversight of the Ministry's. As the House of Commons has been the chief Place of Business this Session, it is possible your Lordships may be as much out of some People's Thoughts, as the Convocation is, but hardly, I believe, out of a Minister's. Some little Circumstances or other are perpetually reminding him of us. Besides, my Lords, this is not the first Indignity of the Kind that has been offered us: In the Year 1726, the same Thing happened; and in a Message from his Majesty to the House of Commons (probably penned by the same Hand as this) the Appellation of Parliament was given them, as if the Parliament of *England* were composed of their Body only. I must, therefore, consider the present

Ann. 13 Geo. II.
1739.

sent Case as a repeated Invasion of the Privileges of this House, highly reflecting upon the Dignity of every Peer who has a Seat in it. Why this has been thought a proper time for such an Attack, I know not, unless it be supposed, that the Essence of a Parliament is lost: Was this the Case, my Lords, (which God forbid!) we should do right, however, to keep up the Forms and Customs of it, and maintain at least the Appearance of what our Ancestors enjoyed. If there are any such reflecting Suppositions as these, if there are any such as flatter themselves, that a successful Corruption has banished the Freedom of Parliament, it is our Duty, my Lords to blast such Hopes, and shew we are not yet such humble Dependants upon Power, as tamely to offer a Sacrifice of our Rights, whenever a Minister pleases to call for them. What a melancholy Prospect should we lay before the Eyes of our Countrymen, whose expiring Liberties call loudly for our Aid, if we, the Guardians of their Rights, were no longer to be Protectors of our own!

Who, my Lords, could have been the Author of this Message, I own I am at a Loss to say: It could not have been his Majesty's: His Royal Favours to so many of your Lordships, is a sure Proof of his tender Regard to the Honour and Dignity of this House: It could not have been dictated by any of the Lords of his Majesty's Privy Council: They never would have advised to so great an Infringement of their own Privileges; nay, they could not even have had Cognizance of it; if they had; they would have prevented it. Whosoever's Work it was, thus far I will venture to say, my Lords, that it was formed upon that fatal, yet favourite Plan of lessening the Credit of Parliament. For this dreadful Purpose, is it not enough, that every Office and Honour in the Church and State pass thro' the Hands of one Man? is it not enough, that he has it in his Power to put Virtue to the Test, by privately applying that Temptation, which he thinks is most likely to succeed? Must also a general Assault be given to the whole Body of us; and shall the Dignity and Honour of this House be treated as cavalierly as the miserable Character of any single Dependant?

To avoid the Odium and Reproach such an Invasion of our Privileges must naturally incur, it has been artfully insinuated, my Lords, that this is Matter of Dispute between the Commons and us, so that, under the Pretence of asserting the Rights of one House of Parliament, the Rights of the other may the more easily be violated. My Lords, this is no Matter of Dispute between the Commons and your Lordships: We ask nothing new, nothing unprecedented: We don't attack any of their Privileges; we only desire to remain in the Possession of our

OWN;

own : Our utmost Ambition in the present Case is, to be look'd upon as a House of Parliament, and consulted by his Majesty as such. When our Rights are thus plain and indubitable, our Case becomes national, and the Commons themselves are interested in the Support of it : Whenever the Dignity and Authority of this House is brought low, their Rights and Privileges won't be of long Duration ; and whenever any impious Hand dare impose Shackles upon us, the same Fate will be prepared for every other Part of the Legislature.

Ann. 13 Geo. II.

1739.

From such a Calamity the uninfluenced Spirit of Liberty that reigns in this House, the independant Sentiments of your Lordships, (which neither Interest nor Power can wean from your Country's Cause) will, no Doubt, sufficiently protect the present Age ; but we may lay Foundations for the future Dishonour of this House, if we let pass unregarded, such dangerous Precedents, as I apprehended this of his Majesty's Demand of Supply to the House of Commons singly. I must therefore, humbly move your Lordships, that you would come to this Resolution, That it is contrary to the Customs of Parliament, and derogatory to the Privileges of this House, that a Message signed by his Majesty, asking a further Supply for the carrying on a War, should be sent to the House of Commons singly, without taking any Notice of this House.

The Lord *De'awar*.

' My Lords, I shall always be as jealous of the Honour, The Lord De- and of the Rights and Privileges of this House, as any Lord *lawar*. in it ; and shall be as ready to resent any Indignity that may be put upon it. But, my Lords, we can put no greater Indignity upon ourselves, than that of being jealous without Cause, or resenting without Reason. In common Life, a Man that is unreasonably suspicious, and apt to take every Thing as an Affront, is always uneasy in himself, and generally despised by others. It will be the same with your Lordships : If you should suppose you are affronted, when no Affront is designed, or insist upon Rights that do not properly belong to you, it will be the most effectual Method you can take, for lessening or annihilating that Respect which is due to you, as the highest and most august Assembly in the Nation. It is not by Jealousies and Suspicions, or by menacing Resolutions, that we are to preserve that Character, which this House has for so many Ages deservedly borne, but by a prudent and steady Conduct, and by shewing, that in all our Proceedings we have sincerely at Heart, the Honour of the Crown, the Privileges of the Subject, and the Happiness of the Nation.

Ann. 13 Geo. II.

1739.

I am not only surprized, but sorry, that any Lord in this House should imagine, that his Majesty, or any one that advised him, intended to put an Affront upon this House, by sending to the Commons the Message which the noble Lord has been pleased to mention, without sending at the same Time the like Message to this House. I am convinced, there was no Affront designed, and I cannot see the least Shadow of Reason why any Lord should imagine there was. So far otherwise, my Lords, I must think it would have been extremely improper to have sent any such Message to this House, because it relates to nothing but the Supplies for the Service of the ensuing Year. It is the Business of the other House to grant the necessary Supplies, it is from the other House that such Supplies are asked by the Crown, and therefore, it is to the other House, and, I think, to it alone, that Application ought to be made for any additional Supply.

In all the Speeches that have been made from the Throne for many Years past, your Lordships may observe, that our Sovereign has always addressed himself particularly to the Gentlemen of the House of Commons, when he mentioned the Supplies necessary for the current Service. In that Speech which his present Majesty made at the Opening of this Session, he addresses himself particularly to the Gentlemen of the House of Commons, and tells them, that he has ordered the Estimates to be laid before them, and that he hopes they will grant such effectual Supplies as may enable him to carry on the War with Vigour. Was that particular Address to the other House then found fault with? Was it ever found fault with? And yet, I must be of Opinion, that we have as much Reason, or rather more, to find fault with his Majesty's addressing himself upon that Occasion to the House of Commons singly, as we can have, to find fault with his having sent this Message to that House singly.

Our Concurrence, 'tis true, my Lords, is necessary for every Article of Supply that can be granted by the other House; but that Concurrence has always been expected without being asked by the Crown. Why therefore should we look upon its not having been ask'd by the Crown upon this Occasion, as a Neglect, or as any Sign of Disrespect? Nay, if your Lordships will but consider the Words of the Message, you must see, that his Majesty could not send it to this House. In that Message his Majesty acquaints his Commons, that he has under his Consideration, certain Measures which would occasion some extraordinary Expences, not comprehended in the Estimates laid before that House. Could his Majesty have expressed himself so to this House? Have we any Estimates before us, or was it ever customary to lay any such Estimates before us? The Message therefore, if it had been sent to this House,

House, must have been altered some Way or another; and, I confess, I am at a Loss to conceive, how it could have been altered, so as to make it proper for being sent to this House, without inserting some Words that might have created a Jealousy in the other; and this Jealousy might, perhaps, have bred a Contention between the two Houses, that would have been of the most dangerous Consequence in the present Conjuncture,

Ann. 13 Geo. II.
1739.

This, my Lords, is no groundless Insinuation or Pretence, in order to excuse the not sending that Message to this House as well as the other. The sole Right of granting Supplies is a Right which the other House has always most strenuously asserted, and we as pertinaciously refused to admit. It is a Dispute that has occasioned great Heats between the two Houses as often as it has been revived, and has sometimes put a full Stop to all public Business. How fatal this might be in our present Circumstances, I must beg your Lordships to consider. We are now, my Lords, engaged in a dangerous War for vindicating the Rights and Privileges of the Nation; and therefore, I must beg that every Lord who has a Concern for our Success, would take care to avoid every Thing that may give Rise to a Contest about particular Rights and Privileges amongst ourselves. This, I dread, may be the fate of the present Question. If we should agree to it, I'm afraid, it will be considered as a Claim set up by us, that no Article of Supply ought to be demanded of the House of Commons, without demanding it at the same Time of us. This I must look upon as a new Claim: It is a Claim for which we have no Precedent; and it is a Claim that will, I fear, create a Misunderstanding between us and the Commons; for which Reason I must beg Leave to think the noble Lord's Motion no way proper at present; but whether it may be proper to put a Negative upon it, or to put the previous Question, I must leave to your Lordships Consideration.'

The Lord Talbot.

'When I consider you, my Lords, as the supreme Council of the Crown, and in a yet higher Light, as the hereditary Guardians of the Liberties of a free, brave, and once flourishing People, I am struck with such reverential Respect, such awful Veneration, that I can scarcely give Utterance to my Thoughts in this august Assembly. But when I reflect upon the Insults offered to your Dignity, the Contempt shewn to your Authority, that Reverence, that Veneration hath a contrary Effect upon my Mind: Zeal for your Rights, Zeal for the Interest of my Country, inflames my Breast, and drives from

Ann. 13 Geo. II.

1739.

from thence every selfish Consideration : I am impatient to vindicate your Honour, and eager to violate that Silence, Prudence would always direct me to observe.

When I read the printed Votes, by which you were informed of the Transaction that gave Rise to the important Business of this Day ; I read them with Concern, with Astonishment, with Indignation. I endeavoured to discover, what could have occasioned this Neglect from his Majesty, this Affront from his Administration. I thoroughly examined the late Conduct of the Majority of your Lordships, and found nothing that could incur the Displeasure of those in Power. Whatever Measure they have condescended to communicate to your Lordships, hath always obtained your Approbation ; and, in regard to public OEconomy, to which the Message taken notice of is chiefly relative, tho' it is far from my Intention to flatter you, I must say, you have never shewn a Disposition so niggardly, as to oppose a single Scheme of Ministerial Generosity.

On the contrary, my Lords, you have given indisputable Proofs of your Contempt for sordid, national Frugality ; You have behaved as if you were persuaded, the Kingdom abounded as much in Wealth, as the Heads of those, who have, in some former Times, had the Management of Affairs, were fertile in Projects to squander and consume it : Nor do you entertain such a Belief without substantial Cause ; for it would be absurd to imagine, 200,000 *l.* could be annually distributed among a Part of your Lordships, by a Nation which doth not enjoy the utmost Affluence. But Merit in every Way deserves a suitable Reward ; and tho' a hundred lucrative Employments are possessed by Members of this august Assembly, the Duty expected from them is so exactly observed, that the greatest Part is enjoyed with unenvied Reputation.

The Commons have gone great Lengths in excluding your Lordships from any Authority to alter Money-Bills, tho' no Aid can be granted, no Taxes imposed, without your Consent. They are very expert in explaining, and assiduous in contriving Precedents to support this unreasonable Infringement of your Privileges ; and, in this Point, every Relaxation of your own, is a Confirmation of their Power. But, my Lords, what you have hitherto scorned verbally to admit, I hope you will disdain virtually to allow. The whole Nation is concerned in your supporting your constitutional Rights ; for tho' some short-sighted Politicians may imagine, by lessening you, the Commons will be aggrandized, in Fact it will be found, that every Attempt to render

der you insignificant, will be a Step towards making the Crown absolute. Ann. 12 Geo. II.
1739.

The other House hath been under the Controul of one of its own Members: May it never again be in the like abject State! But should that vile, detestable, seductive Art, Corruption, ever insinuate itself into that Assembly, the Effects may be as fatal, tho' the Means more contemptible, than the Hypocrisy, Sagacity, and Intrepidity of *Cromwell*. If a Majority in that House, instead of being really the Representatives of the Nation, should be elected by not more than 50,000, out of *ten Million* of People, and these 50,000, the Dregs of the Populace: If a Minister, by the Assistance of a venal Crew, the direct Representatives of their infamous Constituents, should be secure of carrying every Point according to his own Inclination: If by them he shall be able to frustrate every Inquiry into public Measures: If any Motion to prevent a mercenary Contagion from extending its baneful Influence over those entrusted with the Liberties of their Country, shall be insolently rejected: If a Law in the Statute Books for that salutary Purpose, shall be notoriously violated, and explained contrary both to the Spirit and Letter of such a Law; what will be the Fate of this unhappy Nation, if your Lordships are not then in a Condition to protect your Country?

I beg Pardon for having trespassed so long upon your Lordships Time. The Motion is so moderate, ——— a mere Assertion of indubitable Rights, ——— that, I think, no Method of evading it ought to be used. Indeed, if Strength of Argument, enlivened by all the Force of Eloquence, and Truth delivered with Dignity, because dictated by a Heart whose predominant Passion is the Public Welfare, can have any Weight here, the Fate of the noble Lord's Motion may be safely rested upon what he hath so fully, so honestly argued in Support of it.

The Lord Chancellor.

' Before we can with any Propriety enter seriously into the Debate, 'tis necessary we should well understand the Nature of the Question before us. I shall not, therefore, at present trouble you with entering into the Merits, I shall only take the Liberty to state the Question, according as it appears to me. His Majesty, in his Speech from the Throne, at the Opening of the Session, demanded of the other House a Supply for the Service of the ensuing Year, and told them he would order Estimates of the particular Services to be laid before them. Those Estimates were ac-

Ann. 13 Geo. II.

1739.

cordingly laid before them ; but then, as we are now engaged in a War, and as his Majesty, it seems, is resolved to undertake, if possible, some secret Expeditions against the Enemy, an Account of which neither can nor ought to be made public, a greater Supply will be necessary than can appear by the Estimates laid before the other House, and this his Majesty thought himself obliged to acquaint them of ; because, otherwise, he could not have expected any greater Supply than appeared necessary by the Estimates he had ordered to be laid before them, and consequently he could not have undertaken any secret Expedition against the Enemy, however probable the Success might have appeared, or however expedient future Accidents or Circumstances might have rendered it for him to engage in such a one.

The Message, therefore, which is now under your Lordships Consideration, I can look upon in no other Light, than as a Message to the other House, to acquaint them, that some Expences would be necessary, of which no Estimate could be made ; and in this Light I must look upon it as a Sort of Estimate, and must think, that your Lordships have as much Reason to complain, that all the Estimates for the particular Services of the ensuing Year, were not communicated to you, as well as to the other House, as you have to complain, that this Estimate was not communicated to you at the same Time it was sent to the Commons.

The Lord Carteret.

The Lord Carteret.

* My Lords, I am surprized to hear the noble Lord that spoke last, state the Case as he has done. It is not possible to look upon this Message in any Light that can make it bear the least Resemblance to an Estimate. It is a Message for a new Supply ; a Supply arising from new Measures, which were not so much as hinted at in his Majesty's Speech from the Throne. Let us, my Lords, but consider the Words of his Majesty's Speech, and we must conclude, that the Message now under our Consideration, can have no Relation to any Supply thereby demanded. His Majesty, when he addresses himself to the House of Commons, tells them, that he has ordered Estimates for the Service of the ensuing Year, and likewise Accounts of the extraordinary Expences of the current Year, as also an Estimate of the Charge of raising a Body of Marines, to be laid before them ; and then he says, he cannot doubt but they will grant such effectual Supplies, as may enable him to carry on the War with Vigour. Can the Word, Supplies, here relate to any Thing, but the Estimates and Accounts, which his Majesty had ordered to be laid

laid before them? Can any one suppose, his Majesty meant, that it should relate to a Charge of which no Estimate or Account could be laid before them? Or could any Lord in this House suppose, from what his Majesty there said, that any Measures were to be undertaken, which were not to be mentioned in any of the Estimates? If any such Measures were then thought on, they ought to have been mentioned in his Majesty's Speech from the Throne: If they have since fallen under Consideration, his Majesty should have been advised to have come again to the House, and acquainted us of it by a new Speech, or at least he should have been advised to have communicated it to both Houses by Message. If his Majesty had, by either of these Methods, told us, that he had under his Consideration such Measures as would require an additional Expence, but could not be communicated, I am sure, I should not, I believe no Lord in this House would have desired a Discovery.

It is the Business of the other House, my Lords, to consider and determine, what Supplies may be necessary for the public Service: It is their Business to consider and determine, what Ways and Means may be most proper for raising those Supplies; and we are to give our Concurrence, if we think they are in the Right. But as to the Measures or Services which make those Supplies necessary, it is our Business to consider and determine, whether or no they are proper: It is this House that his Majesty ought chiefly to consult upon such Occasions; therefore no Supplies ought to be either asked or granted, till the Measures or Services have been communicated, or at least mentioned to this House, either by Speech or Message; and as from the very Words of the Message, it appears to be a Message for a new Supply, which is to be applied to Services or Measures, that were never before so much as hinted to this House, it ought for this Reason to have been communicated to this House, to the End that we might have had some Opportunity of approving or disapproving of the Measures; and, at the same Time, it ought to have been communicated to the other House, to the End that they might have provided the Supplies necessary for carrying on those Measures.

Having thus shewn, my Lords, that it is not possible to put such a Meaning upon this Message, as has been put by the noble Lord that spoke last, I shall not trouble your Lordships at present with entering farther into the Debate, because I have as yet heard very little said against the Motion; but, if I should hear any material Objection made to it, I shall beg Leave to rise up again, in order to approve of the Objections, if I think them such as ought to be approved of, or to give them such an Answer, as I may think sufficient for preventing their having any Influence in this Debate.

The Earl of
Cholmondely.

‘ My Lords, however proper or necessary the Motion, now under our Consideration may be, I wish that noble Lords would, when they make any Motion, keep close to the Argument, and avoid launching out into personal Invektives. The introductory Speeches that have been made in Favour of this Motion, look’d, in my Opinion, more like an Introduction to an Impeachment, than an Introduction to a Motion for vindicating the Privileges of this House. If our Liberties are expiring, my Lords, or if any Attack has been lately made upon them, why does not some one of the noble Lords that think so, stand up in his Place, and impeach those who are carrying on, or contriving any such Attack ? It is what every Lord has a Right to do : It is what every Lord ought to do. Instead of bewailing upon every Occasion the Danger our Liberties and Constitution are exposed to, by secret Machinations or fraudulent Practices, they ought to explain those Machinations and Practices to the House, and they ought to conclude with an Impeachment in Form against the Persons they suppose to be the Authors of such wicked and dangerous Designs.

I hope, my Lords, I have as great a Concern for the Liberties of the Nation, and for the Rights and Privileges of this House, as any Lord that has the Honour of having a Seat in this august Assembly : If I thought, that any Attack had been made upon either, no Lord should be more ready than I, to concur in Measures for bringing the guilty Authors and Abettors to condign Punishment. But I do not think, that the least Attack has been lately made upon either ; and in the present Case, I do not think it can be supposed, there was any Design of attacking the Rights and Privileges of this House. His Majesty, in his Speech from the Throne, desired such Supplies as might be effectual for enabling him to carry on the War with Vigour ; and if any one of those Supplies be of such a Nature, as not to admit of an Estimate, can we suppose, that his not acquainting us of this, was designed as a Violation of any of the Privileges of this House ? It is well known to every Lord here, that no Estimate is ever laid before us. We generally agree, or we may disagree, to the Supplies granted by the other House, without seeing any Estimate. Whereas in the other House, a particular Estimate for each particular Service is always laid before them, and they never grant a larger Sum for any particular Service, than appears from the particular Estimate to be necessary ; nor do they grant any Sum for any particular

ticular Service, without having an Estimate for that particu- Ann. 13 Geo. II.
 lar Service previously laid before them. Therefore, when a 1739-
 Service was to be incurred, for which no particular Estimate
 could be made, it was necessary for his Majesty to tell them
 so ; but in my Opinion, it would have been both improper,
 and contrary to the Usage of Parliament, to have said any
 Thing of it to this House in his Majesty's Speech, and much
 more so, to have acquainted us of it by a particular Message.
 It would very probably have given the Alarm to the other
 House, as if his Majesty designed, that we should interfere
 with them in granting the necessary Supplies ; and therefore,
 I think, his Majesty's not communicating this Message to us,
 was so far from being any Sign of Disrespect towards us,
 that it was a new Testimony of his Wisdom, and of the great
 Regard he has to the Usage of Parliament, and to the Peace
 and Happiness of his People.

But suppose, my Lords, I were of Opinion, that this Mes-
 sage ought to have been communicated to this House at the
 same Time it was communicated to the other ; yet, as I
 am fully satisfied, that no Affront was intended to be put upon
 us, by not sending this or some such Message to us, at the
 same Time it was sent to the other House, I could not, in
 our present Circumstances, concur with the Motion now be-
 fore you ; because I should be afraid, that our coming to
 such a Resolution might interrupt that Unanimity, which is
 so necessary for bringing the War we are now engaged in,
 to a happy and speedy Issue ; and when the noble Lord con-
 siders this, I hope he will not insist upon having this Mo-
 tion put to the Question.'

The Lord Onslow.

' My Lords, I cannot pretend to be so nice a Judge of The Lord
 the Rights and Privileges of this House, as some of your Lord- Onslow.
 ships may be ; but I cannot think, that an Application to
 the other House singly, in any Matter that relates to the
 Supply, is such a direct and open Violation of the Rights
 and Privileges of this House, as ought to prevail with us,
 to come to a Resolution that may raise Heats and Animo-
 sities about particular Rights and Privileges amongst ourselves,
 when the Rights and Privileges of the whole Nation are in so
 much Danger, I am persuaded, an Account of this Motion
 will be looked on as very good News by the late Duke of Or-
 mond at the Head of his Rebel-Army in Spain. From the very
 Motion itself, I believe, both he and the Court of Spain will
 conceive Hopes of Success in their intended Invasion ; and if
 they conceive such Hopes for the Motion, what will they not
 expect,

Ann. 13 Geo. II. 1739. expect, should they hear of its being agreed to? I am for doing nothing that may give them the least Encouragement to attempt an Invasion upon this Nation, and therefore I shall be against agreeing to the Resolution proposed.'

The Lord Delawar.

*The Lord
Delawar.*

' My Lords, I was in some Hopes, the noble Lord would have been prevailed on to have stood up and waved his Motion; but as the Question seems to be insisted on, and as some Lords may be under Difficulties with regard to a Negative's being put upon such a Motion, and yet may be convinced, that the present is a very improper Time for our coming to such a Resolution, therefore I shall beg Leave to move, that the previous Question may be put.'

The Lord Carteret.

*The Lord
Carteret.*

' My Lords, Upon such a Motion as this, I am extremely surprized to hear any of your Lordships move for the previous Question. The previous Question, my Lords, may in many Cases be right, but surely it cannot be so in this. When a Motion is made, which appears to be in itself right, but which is neither necessary nor proper to be put to the Question at that Time, the previous Question may they properly be moved for, and it is prudent to make use of it for waving a Question, which does not then necessarily require an Affirmative, and which cannot, in its own Nature, admit of a Negative. But can the Question now before you be said to be of such a Nature? My Lords, if it cannot admit of a Negative, it necessarily and immediately requires an Affirmative. It is a Question that affects the Honour of this House, and consequently the Honour of every Lord in it. If the Honour of this House has been attacked by sending such a Message to the House of Commons singly, which the previous Question supposes, will any of your Lordships say, that we ought not immediately to vindicate our own Honour, at least by such a Resolution as my noble Friend has been pleased to propose? Can our agreeing to such a Resolution be attended with bad Consequences at this Time, any more than at another? My Lords, it can be attended with no bad Consequences either to the Nation in general, or to any particular Man. It is so prudently drawn up, that it can affect no Person in the Kingdom: But if such a Thing could be supposed, shall we allow the Safety of any Subject whatever, to stand in Competition with the Honour and Dignity of this House?

We may talk of Impeachments, my Lords, and of the Right that every Lord in this House has, to stand up in his Place,

Place, and impeach whomsoever he supposes to be guilty ; but if it should appear, which I hope, it never shall, that the Majority of your Lordships have a greater Regard for the Safety of any particular Subject, than for your own Honour, or the Honour of this Assembly, I am sure it would be an imprudent and very ridiculous Step in any Lord, to rise up and impeach that Person before this Assembly, even tho' he could bring evident Proofs of his being guilty of the most heinous Crimes and Misdemeanors. In all Cases of Impeachment, there are several preparatory Steps or Motions necessary, before any Lord can directly impeach ; and when such preparatory Motions are disagreed to by the House, it becomes impracticable for any Lord to proceed to an Impeachment. In the present Case, if what is now complained of, were of such a heinous Nature, as to deserve an Impeachment, the first preparatory Step would be some such Motion as this, and the next would be a Motion for addressing his Majesty, to know who had advised him ; both which Motions must be agreed to, and an Answer returned from his Majesty, before any Lord could stand up in his Place, and impeach the Person who gave the Advice. But at present there is no such Design : If there were, the Motion would have been drawn up in much stronger Terms. We may see, from the Terms in which it is drawn up, that the noble Lord has no other Design, than to vindicate the Rights and Privileges of this House ; and for this Purpose, his Motion will have a good Effect, whatever may be its Fate. Even tho' our agreeing to it should at this Time be prevented by the previous Question, yet the very Motion will, I hope, prevent any Minister's daring to shew such a Contempt of this House for the future.

This, I hope, my Lords, will be the Consequence of the Motion, even tho' you should put the previous Question upon it ; but if that Question should pass in the Negative, I must beg your Lordships to consider what Effect it may have with regard to your Characters. By putting the previous Question, you admit, that the Motion is in itself right : What Reason then can be assigned for your not agreeing to it ? None but the Regard you have for those who have, at present, the Honour to be his Majesty's Counsellors and Advisers ; and will not the censorious World from thence conclude, that you have a greater Regard for them, than you have for your own Honour or Reputation ? Therefore, if the previous Question should be put, as it must be, if insisted on, I hope every Lord that thinks the Honour of this House is not in the least affected, by the sending of this Message to the other House without taking any Notice of this, as well as every Lord, who thinks otherwise, will give his Affirmative upon the previous Question, in order that the principal Question,

Ann. 13 Geo. II. on may be put ; for those who think the Honour of this House
 1739. not in the least affected, ought to be for having a Negative put upon the principal Question, in order to vindicate their own Character ; and those who think otherwise, ought to insist upon having the principal Question immediately agreed to, in order to vindicate the Honour of this Assembly. In a Case of Honour, my Lords, there is no Doubt to be admitted of ; for no Man can have a true Regard to his Honour, that does not immediately endeavour to vindicate it, in every Case where there is the least Suspicion of its being attack'd

But, my Lords, can any one of your Lordships doubt of the Affront that has been put upon this House, in not communicating to us a Measure in which the Nation is so much concerned ? Are we to agree to the Supplies voted by the other House, without knowing any one Reason for our so doing ? The other House will probably, I hope they will, grant a Supply for the Measures now under his Majesty's Consideration ; but how are we to know that there are any such Measures under his Consideration ? Are we to take an Information, with regard to his Majesty's Intentions, from the Commons ? God forbid, my Lords, that ever any of your Lordships should entertain so mean a Thought. What can we think then of this Neglect ? Must we not think, that we are forgotten by his Majesty, or, at least, by those who have the Honour to advise him ? And, if this House should once come to be forgotten by the Crown, it will be forgotten by every Man in the Kingdom. It will be deserted even by those who then have the Honour, I may say the Misfortune of being Members. It will then be attended only by three or four Court-Lords, and perhaps half a Dozen or a Dozen of Prelates ; and, if this should ever come to be the Case, we may easily judge what Weight or Authority it will have among the People.

For this Reason, my Lords, I think we are infinitely obliged to the noble young Lords that made and seconded this Motion ; and, if they have express'd themselves a little warmly, they ought to be applauded. It is natural for a young Gentleman of any Spirit to grow warm, when he thinks his Honour in the least Degree attack'd. My Lords, it is with Pleasure I perceive a Spirit of Virtue and Liberty beginning to prevail among the young Lords of this House. Their Example will, I hope, be followed by all the Youth of the Nation ; and therefore, I must look upon them as the best Securities we can have for the Preservation and Improvement of our own Constitution. Old Men may, perhaps, be a little too passive : They may sit still under an Encroachment, rather than ex-
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pose themselves to the Danger and Fatigue of opposing it; and thus, by suffering Encroachment after Encroachment, the Constitution may be undone: But, when the Youth of a free Nation are indu'd with a true Spirit of Virtue and Honour, they will take fire upon the first Encroachment: They will bear any Fatigue, they will expose themselves to any Danger, rather than allow the first to go unpunished, or at least unresented; and thus, by opposing the first, they will prevent a second.

Ann. 13 Geo. II.

1739.

It is needless, my Lords, to ask a Precedent for our complaining of the Message now under our Consideration. It is hardly possible there should be any one directly in Point. There never was such a Message sent to both, or either House of Parliament, before the Year 1717. But, I must observe, that this is not the first Affront that has of late been attempted to be put upon this House. In the Year 1726, his late Majesty was advised, in a Message then sent, to call the other House the Parliament, as if this House had been no Branch of the Legislature. This was then properly resented: Those who advised it, were obliged to own it was a Mistake; and it was, almost with Tears in their Eyes, they prevented a farther Resentment. This is a Precedent for our complaining when any Neglect seems to be shewn us by the Crown. The two Cases, I shall grant, are far from being parallel; for the present Case is as much stronger than the former, as Facts are stronger than Words. In the former Case, the other House was, in Words only, called the Parliament; but in the present, they are, in Fact, treated as such. They have been singly consulted in a Point of the greatest Importance and Concern to the Publick, as if we, of this House, had no Share in the Legislature or Government of our Country. Therefore, if we had then Reason to complain, as the Majority of this House, at that Time, thought we had, the Reason we now have, is more cogent, and ought to be more prevailing.

Our Sovereign's addressing himself, in his Speech, to the other House particularly, when he mentions the necessary Supplies, can afford no Pretence or Excuse for the Neglect now shewn to this. In every Speech from the Throne, the first Part of it is addressed to both Houses; and, in that, the Measures or Services which make the Supplies necessary, are mentioned: Being thus informed of the Services, we may judge of them, and may declare against them, if we think them improper or inconsistent with the Public Good. But with regard to the Services or Measures mentioned in this Message, we have had no Information of them, in a Parliamentary Way, and therefore can no Way judge of them, or give his Majesty any Advice concerning them. If his Majesty had

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Ann. 13 Geo. II.

1739.

been so good as to let us know, that he has certain Measures under his Consideration, which will occasion some extraordinary Expence, not comprehended in the Estimates laid before the other House, I should certainly have approved, without enquiring what the Measures were, and should have been ready to have concurred in granting a Supply sufficient for carrying them into Execution, because, I believe, they are right, and such as may contribute to our Success in the present War. But, if I had thought otherwise, if I had thought that his Majesty had been advised to send the Fleets and Armies of this Kingdom upon some romantic Expedition, I would have been so far from approving, that I should probably have moved for an Address, in order to give his Majesty proper Advice upon the Occasion; and, if the other House had granted a Supply for the carrying on of such Measures, I should have refused giving it my Concurrence in this House. Whereas, in the present Case, I can neither approve nor disapprove of the Measures; and, if the Grant of a Supply for carrying on Measures I know nothing of in a Parliamentary Way, should come up from the other House, I am sure, I shall think myself bound in Duty to my King and Country, as well as for the Sake of the Honour of this House, to oppose as much as I can our giving our Concurrence to such a Grant.

'Tis true, my Lords, the Estimates for the particular Services are not laid before this House; but I hope no Lord imagines, that it is because we have not a Right to examine into the Supplies granted by the other House for answering those Services. We may not only examine into them, but we may prevent their having any Effect, by refusing our Concurrence: We ought to do so, when we know nothing in a Parliamentary Way, of the Services for which they were granted; and tho' the Estimates for the particular Services are not usually laid before us, yet our Sovereign, in his Speech from the Throne, at the Opening of the Session, either does, or ought to communicate to us, in general Terms, the Services for which the Supplies are to be granted, and in our Presence acquaints the other House, that he has ordered the particular Estimates and Accounts to be laid before them. Nay, even as to those Estimates and Accounts, we may, if we please, call for them, and may examine particularly into every one of them: 'Twould be our Duty to do so, if we should have the least Suspicion, that any one of them were false, or over-charged.

From what I have said, my Lords, I hope, it will appear, that those who advised his Majesty to send a Message to the other House, relating to public Measures to be undertaken, without taking any Notice of this House, have been guilty of a Violation of our Rights and Privileges, as one, and I hope

hope I may yet say, the superior House of Parliament ; and this Violation, 'tis the more necessary for us to take Notice of, because it is a Violation of those Parliamentary Forms of Proceeding, which, by our Constitution, it has always been thought necessary to observe. Such a Violation, my Lords, gives me a most melancholy Consideration ; because the Substance of a Constitution of Government must be gone, before any one will dare to attack the Forms. Even in the most absolute Governments that have been established upon the Ruins of Liberty, the Forms of their ancient Constitution have been preserved. The *Romans* retained their Senate and their popular Magistrates, even under their most arbitrary and tyrannical Emperors ; and the Consent of that Senate seemed to be asked to every public Act ; the Election of their Consuls, their Tribunes, and several other Magistrates, seemed to be left to the free Choice of the People ; but every one knows, that their Senates always approved what the Tyrant's chief Minister dictated, and the People always chose for their Magistrates, the Persons that were nominated by him ; so that in Effect the Government was as absolute, and much more tyrannical, than it could have been, had they had no Appearance of a Senate, or of any popular Magistrate. In *France* likewise, the Forms of their ancient free Constitution are still preserved. The Parliament of *Paris* still registers the King's Edicts ; but that Parliament has not now the Liberty to refuse. So in this House, we may be allowed to approve of those Measures, which our Sovereign and his Ministers have before resolved on ; and this Form, or rather Farce of having our Approbation, may be continued for many Years after our Liberty or Power of refusing it is taken away. I hope the Ceremony of having our Approbation is not as yet become a mere Piece of Form, or a mere Farce ; but from the Treatment now complained of, I must suppose, that those who advised his Majesty to treat us in such a Manner, are of Opinion, that even this Farce is now become unnecessary, for, it seems, they do not think our Approbation to their Measures so much as worth asking.

My Lords, the Constitution of our Government, according to its ancient Form, is the most perfect, I believe, that was ever establish'd ; and therefore we certainly will, as long as we have any Honour or public Spirit left, endeavour to preserve it. A very great Historian and Politician has long ago said, that the best Form of Government is that, which consists of a certain Mixture of the three principal Sorts of Government ; but such a Form of Government, says he, cannot possibly long endure. We in this Kingdom have fallen upon that Mixture, which he recommends ; and thank God,

Ann. 13 Geo. II. we have hitherto defeated his Prophecy. Our Ancestors have preserved that Mixture for many Ages, often at the Risk of their Lives and Fortunes : God forbid ! my Lords, it should perish in our Hands. But if we should once allow any Minister to tread under Foot, or in the least despise the Rights and Privileges of this House, or to advise our Sovereign to do so, the Dignity of the Peerage will vanish, and if the Dignity of the Peerage should vanish, the Dignity of the Crown itself will be gone ; for the Dignity of our Sovereign consists in his being sovereign Lord of a free People, and a great Number of considerable and independent Lords. Our Constitution will soon deviate into a Democracy, which will of course soon come under the absolute Rule of one, perhaps, one of the lowest Rank among them. This has been already once our Fate, and this may probably be again our Fate, if we should ever bring ourselves into public Contempt, by allowing a daring and usurping Minister to trample upon our Rights and Privileges. To prevent this for the future, is the only Intention of the present Motion ; and therefore, I hope, every Lord that thinks there is the least Cause to suppose, that our Honour has been attacked by the late Neglect that has been shewn us, will give his Affirmative to the principal Question ; for I cannot think the noble Lord will insist upon the previous Question, because I have shewn, that every Lord in this House, let his Opinion be what it will, ought to be for having the principal Question immediately determined.'

The Duke of *Newcastle*.

The Duke of
Newcastle.

' My Lords, with regard to the Motion now under your Lordships Consideration, the previous Question I think is right, and for this very Reason, because the principal Question is not right. There are many Questions, which ought to have a Negative put upon them, whereof I think this is one, and yet there may be Danger in attempting to put that Negative ; because, if the principal Question should be put, what by the ill grounded Prejudices of some, and the unreasonable Difficulties of other, it may be carried in the Affirmative, very much to the Detriment or Danger of the Commonwealth.

The present Question, my Lords, is, I say, in my Opinion, a Question of this Nature : If it were to be put, I should be under no Difficulty in giving my Negative to it, because, I think, the sending of this Message to the other House singly, was neither contrary to the Customs of Parliament, nor any Way derogatory to the Rights or Privileges of this House,
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His Majesty, in his Speech from the Throne, acquainted us Ann. 13 Geo. II,
1739.
of the just and necessary War he was engaged in, and in our Presence demanded of the other House such effectual Supplies, as might enable him to carry on the War with Vigour. In our Presence he told the other House, that he had ordered the Estimates, for the Service of the ensuing Year, to be laid before them; but could any Lord of this House, or any Member of the other, then imagine, that Estimates could be made of all the Services that in Time of War might become necessary? We all know, my Lords, that in Time of War, the most effectual Measures for carrying it on with Success, are generally such as ought to be kept secret, till the very Moment of Execution. The Preparations for the Execution of such Measures must be attended with an extraordinary Expence, and it is impossible to lay any Estimate of that Expence before either House of Parliament, without divulging those Measures which are to be carried on. Therefore, I think, from his Majesty's Speech itself, we could not but expect, that, besides the Estimates usually laid before the other House, and which might be laid before them without divulging those Measures that ought to be kept secret, I say, we could not but from thence expect, that some certain Sum would be demanded for the carrying on of Measures, that neither could, nor ought to be communicated; and the ascertaining of that Sum may, I think, properly be called the Estimate for those Services or Measures; so that the Message complained of, I must look upon as an additional Estimate, or as an Extension of the Estimates previously laid before that House; and I do not think it is contrary to the Customs of Parliament, or derogatory to the Privileges of this House, in his Majesty, to lay, or to order to be laid, any Sort of Estimate before the other House, without ordering it at the same Time to be laid before this.

From the Journals of Parliament, my Lords, it will appear, that, *France*, during the War in *Queen Anne's* Reign, there were many such Messages sent to the House of Commons only. Nay, during the whole War, it was in every Session the Custom, to enable her Majesty to apply any Part of the Supplies granted in that Session to secret, or not then thought of, Services. And so far was this House at that Time from imagining, they were to be consulted with respect to every warlike Measure, the Crown might think proper to undertake, that those disapproprating Clauses, as I may call them, were always agreed to without the least Intimation from the Crown, that any secret Measures were then under Consideration.

I shall grant, my Lords, that when his Majesty is to ask the Advice of his Parliament, it is this House he ought principally

Ann. 13 Geo. II.

1739.

the Affront, should make use of any Art or Ingenuity for palliating the Affront put upon him, I should be apt to conclude, that such a Person had not such a Regard to his own Honour, as he ought to have.

I am, therefore, not a little surprized, to find among your Lordships, so much Art made use of upon this Occasion, and such far-fetch'd Glosses put upon this Message, in order to palliate or excuse the Neglect, or rather Contempt, that has been shewn us. But, my Lords, it is impossible, in my Opinion, to find any Excuse that can have the least Weight, upon those, who have a true and a nice Regard to the Honour of this House. The Message is plainly this, that his Majesty has under his Consideration, certain secret Measures or Designs for attacking or distressing the Enemy, which will occasion an extraordinary Expence, the Particulars of which he cannot, for the Sake of Secresy, communicate, but desires the Assistance of the other House, for enabling him to carry them on, in the most effectual Manner. Is not this a Communication of his Majesty's Designs, as far as they could be communicated? And ought not we to have had this Communication made to us, as well as the other House? Or was it less necessary to ask our Assistance, than to ask the Assistance of the other House? No Minister could think it was, but he who thinks himself so sure of our Favours, that they are not worth asking. This, my Lords, is treating us like the most common Prostitute. We have from his Majesty heard of Augmentations of our Forces by Sea and Land, we have heard of raising a Body of Marines: When the Supplies granted by the other House for these Purposes, shall come before us, we shall know what they are for; and I do not question, but your Lordships will most readily give them your Concurrence. But have we from his Majesty heard any Thing of certain secret Measures now under his Royal Consideration? And if the other House should grant a Supply for those Measures, can we concur in granting such a Supply, when we do not know, that there are any such Measures. The Appropriation-Clause may inform us, that the Commons have granted a certain Sum of Money for the carrying on of certain secret, warlike Measures, but it cannot inform us, that his Majesty then has, or ever had such Measures in View; for this is Information we can take from none but his Majesty himself, and without this Information, we shall act inconsistently with the Honour and Dignity of this House, if we give our Concurrence to a Supply granted for such a Purpose.

This, my Lords, must shew how necessary it was for his Majesty, to acquaint us by Message with his having such Measures under his Consideration; and it was so easy to have formed
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a proper Message for that Purpose, that I am astonished to hear the Possibility of it doubted of. Other Lords may, perhaps, much better understand the Method of drawing up a Message from the Crown to this House, because they have of late Years had great Practice in this Way, more, I hope, than I shall ever have Occasion for; but, in my Opinion, even the Message sent to the Commons would have required but very little Alteration, in order to have made it a Message proper to be sent to this House. If the Words, *not comprehended in the Estimates laid before this House*, had been left out, and the Word, *Lords*, put instead of the Word, *Commons*, I can see no Reason, why it might not have been a Message proper enough to have been sent to this House. We should then have had a proper Information of his Majesty's having such Measures under his Consideration; and we should have had an Opportunity to approve of his Majesty's Care and Concern for the Success of the War, and, perhaps, to give him some general Advice in relation to the Measures proper to be pursued, in case we had thought it necessary. I hope the Danger of our presuming to give our Advice upon so important an Occasion, was not the Reason of his Majesty's being advised not to let us know, that he had any Measures for the Prosecution of the War under his Consideration; for I am sure, if it was, it ought to be resented in a much stronger Manner, than the noble Lord has by his Motion proposed.

But, my Lords, whatever was the Reason for neglecting, or purposely avoiding to communicate his Majesty's Intentions to us, at the same Time they were communicated to the other House, it must appear, from what I have said, to be a most notorious and unprecedented Slight put upon this House. I shall not say, my Lords, we were forgotten, or that any real Injury has been done us. We were, I believe, remembered; but it was, in order to put a designed Affront upon us. We have not been injured, but we have been slighted, which is worse; because a Slight proceeds always from Contempt, whereas an Injury proceeds often from Fear. A powerful, warlike, and jealous People can never be slighted; but if their Neighbours think them too powerful, they will, probably, take an Opportunity, if they can lay hold of one, to do them a real Injury, in order to diminish their Power. It is the same with any Assembly of Men: They must be contemned, before they can be slighted; and if we submit tamely to the Slight we have upon this Occasion met with, we may assure ourselves of meeting very soon with a Second from the same Hand, and so with a Third, a Fourth, till at last we shall come to be contemned, slighted, and insulted by the whole World.

Ann. 13 Geo. II.

1739.

The noble Lord was, therefore, much in the Right to take Notice of this Slight, that has been put upon us, and to take Notice of it in the most solemn Manner. I hope the Majority of your Lordships, at least, will join with him upon this Occasion. His Youth can be no Reason for preventing the oldest Lord in this House from joining with him in such a just, such a necessary, and such a modest Sort of Resentment. It is not the first Time a Nation has been saved by the Vigilance, the Alacrity, and the Courage of a young Man of Quality. *Rome* was saved by a very young Lord, or Patrician, when many of those that were much older than he, were like to have ruined their Country by their Despair. When I say this, my Lords, every one must know, I mean the great *Scipio*, afterwards called *Africanus*, who, before he was 20 Years of Age, saved his Country, by compelling those that were despairing, to take a solemn Oath, that they should never leave nor forsake it. And if there be any amongst us, that despair of being able to preserve the Dignity and Authority of this House, I hope the Example of the young Lords that made and seconded this Motion, will revive their drooping Courage, and make them resolve never to forsake or give up those Rights and Privileges, for which their Ancestors have so bravely fought, and so often bled.

But for God's Sake, my Lords, why should we be so shy of declaring our Opinion upon this Occasion? Many, I hope the Majority of the Lords of this House, are of Opinion, that the Neglect lately shewn us, affects our Honour in the most sensible Part. Why should we refuse, or delay to reject or embrace this Opinion? Let us peremptorily declare, whether it does, or does not. Suppose we should declare it does, by agreeing to the present Motion, what Prejudice can from thence ensue to the Common-wealth? Such a Resolution may, indeed, reflect a little upon the Man, who was the Occasion of this Slight being put upon us. Who he may be, I cannot comprehend. Such a Slight could not proceed from the Crown itself, nor would it have been allowed, if the Advice of any Lord of this House had been asked. Yet there are several amongst us, who have the Honour to be of his Majesty's Council; but I must suppose, that none of them were consulted upon the Occasion. I am sorry they were not: I hope they do not often find themselves so much neglected. But let this Resolution, if agreed to, reflect upon whom it will, it can do no Hurt to the Commonwealth, nor to any Community or Body of Men in the Kingdom. In the Preservation of the Rights and Privileges of this House, every Community, every Body of Men in the Nation, have a Concern. If ours should be brought into Danger, the Rights and Privileges of no Body

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of Men, nor of any particular Man, in the *British* Dominions could be secure. Therefore, my Lords, for our own Sakes, for the Sake of our Fellow-Subjects, for the Sake of our King, for the Sake of our Country, we are obliged to be jealous of the Rights and Privileges of this House, and consequently, I think, we are obliged to agree immediately to this Motion,

Ann. 13 Geo. II.

1739.

The Lord Chancellor.

My Lords, as I have yet given you no other Trouble in this Debate, than merely to state the Question under your Consideration, I shall now give you my Opinion upon it, which I shall do in as few Words as possible. My Lords, if I thought that any of our Rights or Privileges had been in the least violated, by not sending the Message complained of, to this House, at the same Time it was sent to the Commons, no one of your Lordships could be more ready than I should be, to agree to this Motion, or to any farther Step that should be thought necessary for ascertaining and securing our Rights and Privileges in Time to come; but, I am so far from thinking it a Violation, or even a Neglect of any of our Rights and Privileges, that I think it was absolutely unnecessary, and would have been very imprudent, to have sent any Message to this House, upon the Subject this Message related to. We know how strenuously, and with that Warmth, the other House have for many Years asserted their having the sole Right of granting Supplies. We know what Animosities and Divisions have arisen between the two Houses, as often as any Question has been started upon this Subject, and every Lord must with Terror, form in his Mind, an Idea of the unhappy State of Anarchy this Nation would be thrown into, should a Breach happen in our present Circumstance between our two Houses of Parliament. This, I am convinced would have been the Consequence, had his Majesty sent to this House, a Message of the same Kind with that sent to the other. The Commons would have immediately taken the Alarm, and would have said, that his Majesty, by such a Message, had in a Manner directed us to interfere with, and encroach upon them in their sole Right of granting Supplies.

Thus I have shewn, my Lords, that it would have been very imprudent in his Majesty to have sent any Message upon this Occasion to us; and that none of our Rights or Privileges, or even the Deference that is due to us, made the sending of such a Message to this House Necessary, I shall now endeavour to shew. My Lords, there are three Sorts of Messages which are usually sent by the Crown, to both

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Ann. 12 Geo. II.

1739.

or either House of Parliament. The first Sort are such as usually are, and ought to be sent to both Houses: The second, such as are, and ought to be sent but to one House; and the third, such as ought to be sent to one or other of the two Houses, according to the Nature of the Business to which they relate. Of the first Sort are all Messages for Advice, or for any new Powers, especially in Affairs that relate to the Public in general; as to which we all know, that his present Majesty has been very exact, and has never shewn the least Sort of Neglect to one or other of his Houses of Parliament. Of the second Sort, are all Messages that relate to the Peerage, such as that in the Year 1718, which was sent to this House only, and likewise all Messages relating any way to Judicature, which are to be sent to this House singly, without taking Notice of the other, because the Cognizance of all such Affairs belongs solely to this House; and yet, if an Act of Parliament be necessary for introducing any new Regulation, with respect to either of these Cases, we must have the Concurrence of the other House, before that Regulation can be passed into a Law. Of this second Sort likewise are all Messages relating singly to the Business of Supplies, which, in order to prevent a Breach between the two Houses of Parliament, are now to be sent singly to the other House, without taking Notice of this; and yet the Grants of those Supplies, that are made by the other House, before they can be rendered effectual by being passed into a Law, must have the Concurrence of this. And of the third Sort, are all Messages which are sent to either House of Parliament, relating to any one particular Affair at that Time under the Consideration of that House.

Now, my Lords, if we consider the Message upon which the noble Lord's Motion is founded, and which he was pleased to read to you, we must conclude, that it is one of that Sort of Messages which are now to be sent singly to the other House, without taking Notice of this; because it is a Message that relates singly to the Business of Supplies. His Majesty does not thereby desire the Advice of Parliament, nor does he desire any extraordinary Power. The Word Measures are, indeed, mentioned, but they are such Measures as neither are nor can be explained, therefore his Majesty could neither desire nor expect the Advice of either House of Parliament in relation to them: And as they are Measures which his Majesty, it seems, may undertake and carry on without any new Powers, he had no Occasion to ask for such, either from us or the Commons. He wants nothing but a Supply of Money for that Purpose, and that the other House insists upon the sole Privilege of granting; so that if his Majesty had asked any

any such Supply of us, they would certainly have look'd upon it as an Encroachment upon their Privileges; and as this is a Point we have never yet given up, it would of course have occasioned a Breach between the two Houses. That this would have been the Consequence, we may be convinced of, from the Method in which this Message was treated by the other House. Upon their receiving this Message, they did not vote an Address by Way of Answer to the Crown, which is the usual Method upon other Occasions; but they immediately referred it to the Committee of Supply, and in that Committee, I suppose, they have granted such a Sum, as they thought sufficient for the Purpose, and that Sum will, in the Appropriation-Bill, be appropriated to carry on such Measures, as his Majesty shall judge necessary in the further Prosecution of the War. When this Clause comes before us for our Concurrence, we have no Occasion to enquire, whether his Majesty has any, or what Measures under his Consideration. From the Nature of Things we know, that in Time of War, some Measures may become necessary, which could neither be particularly communicated to, nor particularly provided for, by Parliament, either because it was necessary to keep them secret, or because they were not then thought of; and therefore, we could not but expect, that some such Grant would be made by the other House, and would be sent up for our Concurrence. Nay, even from his Majesty's Speech we must have expected some such Thing; for there, his Majesty tells us, that the Services will be various and extensive; from whence we could not but suppose, that particular Estimates could not be made up for every Service that might occur in the Course of this ensuing Year.

From what I have said, my Lords, I hope it will appear, that the sending of this Message to the Commons singly, without taking Notice of this House, was no Slight, nor an Attack upon any of our Rights or Privileges, and that it would have been very imprudent in his Majesty to have sent a Message of this Kind to us; and it will likewise, I hope, from thence appear, that it would not only be wrong, but very imprudent in us, to agree to the Resolution proposed; for the same Reasons that would have made it imprudent in his Majesty to send any such Message to us, must make it imprudent in us to agree to such a Resolution. If we should agree to it, we may expect, that the other House will presently take the Alarm. They will certainly hear something of the Resolution: They will thereupon order a Committee to search our Journals, which they have a Right to do; and upon that Committee's reporting, that they have found such a Resolution in our Journals, the other House will certainly come to
such

Ann. 13 Geo. II. such Resolutions, as must occasion a Breach between the two Houses: How fatal the Consequences of this Breach may be to the Commonwealth, in our present Circumstances, I shall leave to your Lordships Consideration.

1739.

This must shew, my Lords, that we ought to be extremely shy of agreeing to the Resolution proposed; and at the same Time I shall grant, that we ought also to be shy of giving it a direct Negative; for tho' what is now complained of, is no Violation of our Rights or Privileges, nor of that Deference that is due to us from the Crown; yet, if we should put a flat Negative upon this Motion, as it will stand upon Record in our Journals, it may hereafter be made a Precedent for something, that will be a real and downright Violation of our Rights and Privileges, or of that Regard which ought to be shewn us, as the higher House of Parliament; and for this Reason, I think, it is the most prudent Method to suspend the Decision of this Affair, by putting the previous Question upon the Motion.'

The Lord Carteret.

The Lord Carteret.
1739.

' My Lords, I am sorry I should be so often obliged to trouble your Lordships upon this Occasion, but really the more I hear said against this Resolution, the more important the Affair seems to grow, the more necessary, I think, it becomes for us to agree immediately to what my noble Friend has been pleased to propose. His Motion I at first thought would have had a good Effect, even though our Approbation of it should have been suspended by the previous Question; but from what the noble Lord, who spoke last against the Motion, has said, I find the Motion will have no Effect upon the future Conduct of Ministers, unless it now meets with the Approbation of this House. My Lords, it is impossible for any Minister or Ambitious Prince to ruin our Constitution, without first prostituting the Honour, and debasing the Dignity of this House; and this can never be done without our own Concurrence or Connivance. If what has been last said against this Motion, be allowed to have any Influence upon this Assembly, every future Minister that pleases will, at every Turn, take an Occasion to Affront us, and to violate our Rights and Privileges, and will plead for his Excuse, that he durst not do otherwise, for fear of alarming the other House, and occasioning a Breach between the two Houses of Parliament. Nay, his Creatures in this House, as a future Minister may have some, tho', I am sure, no Minister has any such at present, will tell us, that we must not attempt to vindicate our Honour, or assert our undoubted Rights and Privileges, for fear of occasioning a Breach between the two Houses; and will

will be sure to represent to us in the most hideous Light, the fatal Consequences of such a Breach. Ann. 13 Geo. II.
1739.

I know, my Lords, that a Breach, or a Dispute about Privileges, between the two Houses of Parliament, is a very troublesome Affair: I am sensible, that it ought to be avoided as much as possible; but it was never yet attended with any fatal Consequence. When such a Dispute happens, one or other must be in the Wrong; and when Men are allowed Time to cool, and to think deliberately upon the Subject, they generally at last give Ear to Reason, or some Methods are found out to put an End to the Dispute without a Determination; one of which has in a short Time been the Consequence of all the Disputes that have happened between us. Suppose the other House, at the Instigation of some ambitious and artful Member, should be so unreasonable, as to find fault with our vindicating our Honour, and asserting, against an encroaching and arrogant Minister, that Regard which is due to us from the Crown, are we therefore to cease doing our Duty? Or must we, for fear of this Consequence, submit tamely to every Indignity such a Minister may please to put upon us?

For God's Sake my Lords, do not demean yourselves so much, as to allow such an Argument to have any Weight in this Debate. Consider alone, whether in the present Case you have been neglected, and if you think we have, I am certain you will resolve to vindicate your Honour, let the Consequence be what it will. But, in my Opinion, there is not the least Danger of the other House's taking amiss any Resolution you can come to upon this Occasion. There would not have been the least Danger, as the noble Lord has been pleased to insinuate, of their taking it amiss, had his Majesty sent this Message to us, at the same Time he sent it to them. His Lordship may distinguish Messages into as many Sorts as he pleases, but I must insist upon it, that all Messages that relate singly to the Business of Supplies, are not to be sent to the other House singly, without taking Notice of this. A Message for a Vote of Credit, is a Message that relates singly to the Business of Supplies, and yet no Member of the other House, I believe, ever imagined, that a Message for a Vote of Credit ought not to be sent to us, as well as them. My Lords, this very Message is a Message for Credit. It is a Message for an Act of Credit, which is still more than a Vote of Credit. The other House may limit the Credit they give upon this Occasion, as well as they generally do the Credit they give by a Vote; but whatever the Sum may be that is granted or promised, for doing what we know nothing of it is a Grant or Vote of Credit, and every Message desiring such a Vote or Grant, ought to be sent at the same Time to both Houses. The other House's referring this as a Message immediately

mediately to the Committee of Supply, without thinking of an Address by Way of Return to it, is no Argument for shewing, that they thought the Message ought not to have been communicated to this House. Last Session they treated the Message then sent in the same Manner. Tho' it was a Message for a Vote or an Act of Confidence, as well as Credit, they referred it immediately to the Committee of Supply, without thinking of addressing his Majesty by Way of Return: Nor did they think of taking it amiss, that the Message was communicated to us, as well as them. Have we not within these few Years seen several Messages for a Vote of Credit only? Have not all these Messages been sent at the same Time to both Houses? And did the other House ever think of taking it amiss, that such a Message was communicated to this House? The Case would have been the same, had this Message been sent up to us: The other House would not have so much as thought of taking it amiss; nor would ever such a Thought have entered, I believe, into any Man's Head, if it had not been to excuse the Blunder of a Minister, which, I think, is the softest Name I can give the Neglect, that has been shewn us upon this Occasion.

I am really surprized to hear any Lord of this House arguing from the sole Right the Commons pretend to, of granting Supplies, that they may from thence take Occasion to prevent all Sort of Communication between the Crown and this House, which might be the Case, if they should be allowed to be Judges, what Sort of Messages ought to be sent to this House. My Lords we have never yet yielded to them the sole and exclusive Right of granting Supplies, or that we have not a Right to alter and amend those Money-Bills they send up to us. It was but in the Year 1696, that they came to a Resolution, which they afterwards made a standing Order, not to confer with this House about any Amendment made by us to a Money-Bill, and this is the only Determination this Affair as yet met with, which is a Determination we are not in the least obliged to stand to. This very Dispute, it is true, occasioned a Breach between the two Houses in the Year 1671, which was the Occasion of dropping one of the Money-Bills sent up by the Commons that Session; but this was so far from being a Misfortune, that it was lucky for the Nation, because it prevented the entire Ruin of the *Dutch*; for King *Charles II.* had in that Year been drawn into an Alliance with *France* for attacking *Holland*, which was accordingly soon after put in Execution; but the Loss of this Money-Bill preventing his Majesty's attacking the *Dutch* with that Vigour he might otherwise have done, and this gave them Time to prepare, and to withstand the *French* Attack by Land, much better than they could have done, had they at the same Time been vigorously attacked by Sea; so that our insisting strenuously

strenuously upon our Rights at that Time; tho' it occasioned a Breach between the two Houses, was of great Service to this Nation, and to *Europe* in general.

Ann. 13 Geo. II.

1739.

This, my Lords, may serve as a Proof of what I take to be a general Rule in all human Affairs, which is, that in every Case that occurs, we ought to do our Duty, and trust the Event to Providence. But in the present Case, it is evident, that our agreeing to this Resolution can occasion no Breach between the two Houses, nor be attended with any bad Consequence; for I have shewn, that the Commons could not have taken it amiss, had this Message been communicated to us, at the same Time it was to them, and consequently they cannot take amiss our agreeing to the Resolution proposed. I believe, most of them will agree with me in Opinion, that it is a dangerous Thing for the Crown to send any Message in Writing to either of the Houses, without taking Notice of the other; for there is a great Difference between a Message in Writing, and those verbal Messages sent by some of the King's Ministers or Servants. These last, indeed, may be sent to either House, according to the Nature of the Affair to which they relate; but a solemn Message in Writing, I will venture to say, ought generally to be sent to both Houses. If a Message relating to Judicature should be sent to this House singly, the other might probably take it ill; because they have never allowed us the sole Right of being the supreme Judicature, no more than we have allowed them the sole Right of granting Supplies. And even with regard to the Peerage, if a Message in Writing was necessary for introducing or passing any Law relating to it, I believe the safest Way would be, to send it to both Houses; but I cannot conceive, how a Message can be necessary in either of these Cases: Tho' no Bill becomes a Law, till it receives the Royal Assent, yet we have, in both Houses, a Power to bring in and pass such Bills, as we think necessary for the Public Good, or the Preservation of the Constitution, without having Leave from the Crown by Message, or any other Way; for upon such Occasions no Prerogative ought to be allowed to stand in our Way.

I know that in the Year 1718, a Message in Writing came to this House relating to the Peerage Bill; and, my Lords, it was a wise, a tender, and a salutary Message: I wish I could see such another: I am sure, if I could expect to see such another, I should be among the first to move for bringing again such a Bill as that was, into this House. If that Bill had passed into a Law, our Constitution would have been more secure, and this House a better Barrier against the Ambition of Ministers, than it is at present. We know by whom it was opposed: We know it was opposed by one,

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who

Ann. 13 Geo. II.

1739.

who has now great Weight in the other House ; and while he has the same Weight, I believe we shall never see the same Bill revived. But the Message sent to us by the Crown upon that Occasion, was far from being necessary. It proceeded entirely from the Goodness of the late King, who was willing to give that early Testimony of his Approbation, in order to remove the Clamours of some Courtiers, who seemed to be against the Bill ; and had that Message been likewise communicated to the Commons, I believe it would have been right : I cannot think it would have been attended with any bad Consequence. For, in all Cases where a new Law is necessary, if a solemn Message in Writing from the Crown be necessary, as the Law must have the Concurrence of both Houses, the Message ought regularly, I think, to be sent to both.

We have been told, my Lords, that during the late War there were several Precedents of such Messages as this being sent to the other House, without taking any Notice of this. I wish the noble Lords had mentioned but one of these several Precedents, I am sure I know of none. I have shewn, that the Message now under our Consideration is directly a Message for a Vote of Credit : It is, with respect to the Credit Part, expressly the same with that Message which was sent last Year to both Houses, and has been treated in the same Manner by the other House ; and before the Year 1717, so far as I remember, there was never any such Message sent to both, or to either House of Parliament. That Message, we know, was violently opposed, and particularly by an eminent Member of the other House, who has since, it seems, got a new Light ; for he has been not only the Supporter, but, I believe, the Adviser of many such Messages since that Time. During the late War, I can think of no Message in Writing, relating to the War, but what was sent to both Houses of Parliament. After the unfortunate Battle of *Almanza*, there was a Message in Writing from the Crown ; but it was sent to both Houses. After the Death of the Emperor *Joseph*, there was a Message in Writing from the Crown ; but it was sent to both Houses. All the Messages I can think of, that related to the Public in general, have been sent to each House of Parliament ; for it is but of late, that this Method of sending Messages has been begun. When our Sovereign had any Thing new to communicate, or any Thing new to ask, the ancient Method was, to come to his Parliament, and make a new Speech ; and I wish this Method had never been altered ; for it is more solemn, and more becoming that Regard which our Sovereign ought to shew to the Supreme Council of the Nation.

Suppose,

Suppose, my Lords, we should think it necessary to disagree to the Credit desired by the Crown. Suppose we were convinced, that the Credit or Money desired would be employed in carrying on Measures, that must redound to the Prejudice of the Nation. This was the Case in the Year 1671, and may again be the Case: I am far from thinking it is so at present; but if it were, we could, in this Method, have no Opportunity of refusing this Credit, but by doing, perhaps, an infinite Prejudice to the Public; for the Clause of Appropriation, with respect to the Sum granted by the other House, in Pursuance of this Message, will certainly come up to us in some Money-Bill, which the public Service necessarily requires to pass; and if we should think it necessary to throw out the Clause, we must of course throw out the Bill, or occasion a Breach between the two Houses of Parliament, which, the noble Lords, who are against this Motion, have told us, would be of the most terrible Consequence in our present Circumstances.

A noble Lord has told us, that the Sum granted by the other House in Compliance with this Message, will, in the Clause of Appropriation to be sent up to us, be appropriated to the carrying on of such Measures, as his Majesty shall think proper, in the further Prosecution of the War. My Lords, I know nothing of the Words that may be made use of in that Clause; but suppose it comes up in these Words, and that the Sum granted may be 200,000*l.* is not this giving the Crown a Credit for 200,000*l.* in the very same Manner we gave it a Credit last Year for 500,000*l.*? The only Difference is, that last Year his Majesty desired to ask it of us, and to tell us, it was necessary; but this Year, it seems, we are to give it without asking, and without knowing it is necessary. The noble Lord says, the Necessity of giving such a Credit in Time of War, appears from the Nature of Things. My Lords, the very contrary appears from Experience; for during the long and heavy War in Queen *Anne's* Time, no such Credit was ever given. Her Majesty was often empowered to apply any Part of the Supplies to secret or unthought-of Services; but there never was any particular Sum granted for that Purpose: Therefore, if we judge from Experience, as well as the Nature of Things, we must suppose, that no such Credit is necessary, and consequently, as the Crown has neither told us that it is, nor asked any such of us, we must throw out that Clause, and of course the Money-Bill in which it is inserted.

The noble Lord seemed to be sensible, that the Necessity of this Credit was not very apparent from the Nature of Things, and therefore, he endeavoured to shew, that his Majesty had

Ann. 13 Geo. II.

1739.

told us of it, and asked for it in his Speech from the Throne Whether any such Thing can be gathered from the Words he mentioned, or from any Words in his Majesty's Speech, I must leave to your Lordships to judge. In Time of War, the Services must always be various and extensive, but we could not suppose, that his Majesty thereby meant, that we must now grant a particular Credit for those Services, or that such a Thing would be necessary now, tho' it was never before thought necessary. I shall grant, my Lords, that some few Words might very easily have been inserted in his Majesty's Speech, which would have prevented the Necessity of sending this Message to either House of Parliament; but his Ministers, by not thinking of, and foreseeing things before hand, have brought themselves into this Labyrinth; and I wish with all my Heart, they may not, by the same Sort of political Thoughtlessness and Blindness, have brought the Nation into such a Labyrinth, as we shall not soon, or easily get out of.

I must beg Pardon for having given your Lordships so much Trouble; but the Motion now under our Consideration has, by the Debate upon it, become an Affair of so serious a Nature, that I think the very Being of this House concerned in the Question. A particular and distinct Correspondence is now opened between the Crown and the Commons, and that to about Affairs which relate to the Public in general, Affairs of the greatest Importance: That Correspondence may increase to such a Degree, as to render your Lordships quite useless; and if you should once become so, you may depend upon your being at last voted useless by the other House, as you have been heretofore. I thought it my Duty to oppose with all my Might, the first Approach of such another Misfortune. Our Honour, our very Being requires an immediate Assent to this Motion: and as I look upon the previous Question to be a Sort of Negative, I shall, therefore, be against our disagreeing to the Motion, by that or any other Method. The previous Question was then put and passed in the Negative.

Debate upon
upon the Pen-
sion Bill.

March, 19. The Pension-Bill having been read a second Time, a Motion was made for committing it. Which was first opposed by Lord *Walpole*, but before he began he moved, that some Parts of the Journals in the Years 1729, 30, 31, and 32, might be read; which being read accordingly, he then went on in Substance as follows, *viz.*

The Lord *Walpole*.

The Lord
Walpole.

' My Lords, from these Journals it appears, that a Bill with the very same Title has been already four Times sent up

up from the other House, and as often rejected by this, which Ann. 13 Geo. II.
 gave me a Curiosity, as soon as the Bill came up, to look
 into it, and to compare it with the Bill so often rejected ; 1739.
 and, I must say, I was greatly surprized, when I found it
 was almost Word for Word the same ; because I really take
 it to be an Affront offered to us, to send up a fifth Time
 the very same Bill that has, so lately, been four Times re-
 jected by us. Surely, those who were the Promoters of this
 Bill must think, that we are either short in our Memories,
 or variable in our Judgments ; for the Circumstances of the
 Nation are exactly the same now, as they were then ; and
 tho' we have several young Lords come into the House since
 that Time, yet, I am sure, if all those that were, upon for-
 mer Occasions, for rejecting the Bill, be still of the same Opi-
 nion, I may easily judge of its Fate.

This, my Lords, I should think sufficient, upon the present
 Occasion, for prevailing with your Lordships to put a Nega-
 tive upon this Motion, if every Lord now present had been
 here, upon former Occasions, when this Affair was fully de-
 bated ; but, as there are now several Lords here, that were
 not then present, I shall beg Leave but just to touch upon
 some of the Reasons formerly urged against this Bill, and which
 are now full as strong as they were at that Time, nay, some
 of them, I think, much stronger. By wise Politicians, my
 Lords, it has always been laid down as a Maxim, not to
 make any Alterations in the fundamental Forms of your civil
 Government or Constitution, unless some Grievance or Incon-
 venience, that is sensibly felt, render it absolutely necessary ;
 and the Reasons are very plain, because such Alterations are
 generally attended with Convulsions in the State, and because
 the Remedies you provide, are often found to be worse than
 the Grievances you intended to cure. This Maxim, there-
 fore, ought always to be observed, in Time of Peace as well
 as in Time of War ; but, in Time of War, we ought to be
 much more cautious of departing from it, than in Time of
 Peace.

Now, my Lords, according to this Maxim, we must either
 suppose, that there is Corruption in the other House, and that
 of the worst Sort ; or we must allow, that we have now, in
 Time of War a stronger Reason for rejecting this Bill than
 we ever had before. To suppose that there is Corruption in
 the other House of Parliament, and that Sort of Corruption
 too, which consists in ready Money, or a private Pension,
 would be throwing a very great, and, I hope, a very unjust
 Slander upon the other House ; but this I shall be very easy a-
 bout, considering how often they have sent this Bill up to us, if
 it

Ann. 13 Geo. II.

1739.

it did not, at the same time, throw a very great, and I am sure a very unjust Slander upon his Majesty's Government. My Lords, it is a Crime to corrupt, as well as to be corrupted; there can be no Corrupted unless there be a Corrupter, and to suppose that there is, in the other House, any Man corrupted by the Crown, is to suppose that the Crown is guilty of a most infamous Crime, which no Lord in this House will, I am sure, suppose, during his present Majesty's Reign.

We cannot even suppose, my Lords, that any of those employed by his Majesty in the Administration, are guilty of corrupting the Members of the other House, because it is not in their Power. They can grant no Pension but by a Warrant from his Majesty; they can give no Money, because they have not public Money but what they must account for to his Majesty, or to Parliament. As for that Part of the public Money which they must account for to Parliament, no Man will suppose, they can give any Part of it for bribing the Members; and as for that Part which they must account for to his Majesty, they can give none of it, without letting his Majesty into the Secret, and make him a Sort of Partner in their Crime, which no Man will suppose they dare attempt. They can, therefore, have no Money for this Purpose, unless they should make use of their own private Fortunes; and, for such a Purpose, no private Fortune can be supposed to be equal. But suppose it were in their Power, I do not believe it is in their Inclination; and, I hope, many Lords in this, are of my Opinion. I have the Honour to be nearly related to some of those employed in the Administration: From thence I have had an Opportunity of knowing their most secret Thoughts; and from thence I have formed my Opinion. Therefore, if it is neither in the Inclination, nor in the Power of any one employed in the Administration, to corrupt the Members of the other House, what Occasion can we have, would it not be altogether imprudent in us, to make an Alteration in one of the most fundamental Parts of our Constitution, in order to guard against a Grievance, which is neither felt, nor can be, in his present Majesty's Reign, so much as supposed?

My Lords, the Prerogative our Sovereign has of rewarding Merit, in what Shape, or in what Manner, he pleases, is one of the most fundamental, and one of the most useful Parts of our Constitution; and, an Alteration in this Respect, may not only occasion Convulsions, which must be dangerous in Time of War, but likewise, it may be attended with Inconveniencies, which it is impossible to foresee. There are many Sorts of public Services which cannot be immediately explained, which it would be inconsistent with the public

public Good to divulge ; and yet, if this Bill should Pass into a Law, his Majesty could reward no Services in any Member of the other House, without explaining and divulging those Services ; nay, and putting it in the Power of that House to judge, whether those Services deserved such a Reward, which might occasion Disputes between that House and the Crown, and would certainly discourage every Member of that House from rendering any Secret Services to the Public.

Ann. 13 Geo. II.

1739.

This, my Lords, would be a great Prejudice to our Civil Government ; and the frequent Oaths that are to be introduced by this Bill, would be of the most dangerous Consequence, not only to our established Religion, but even to natural Religion itself. In our antient Polity, both religious and civil, it was a wise Maxim, never to oblige or allow a Man to swear in any Case, where Self-Interest was concerned, especially when the Circumstances of the Case were such as made it impossible to convict him of Perjury, even tho' he should be guilty of it ; but this Maxim seems to be quite overturned by this Bill, and therefore, I am convinced it will introduce amongst us, an utter Contempt of Perjury, which is always followed by an utter Contempt of Religion.

These, my Lords, are some of the Reasons formerly made use of against this Bill : They have already been four Times approved of by this House : They are now stronger than ever they were before ; and therefore, for the Sake of your own Character, as well as for the Reason of the Thing, I hope you will give this Bill the same Treatment, it has so often before met with.

The Lord Talbot.

‘ My Lords, Could any Opposition to a Measure, absolutely necessary for the Preservation of the Constitution, have surprized me, I should have been amazed at the Reception given to the Bill now under our Consideration, *The Lord Talbot,*

The Commons, sensible of the Prevalence of Corruption, and well knowing the inevitable Destruction attendant upon any Government infected with that political Contagion, have sent your Lordships a Bill for securing their own Integrity, and to prevent the dreadful Effects, an Evil so subtle and formidable might soon occasion, if not entirely eradicated. Nor is the Bill founded upon *Utopian* and chimerical Schemes of public Virtue ; but so extremely requisite, that you have already in the Statute Books two Laws calculated to obtain the same End : Notwithstanding which, it is still possible for Ministerial Craft, working upon abandoned Prostitution, to evade and render them ineffectual.

If

Ann. 13 Geo. II.
1739.

If you believe the Commons really intended, by their passing this Bill, to support their own Honour, and to preserve their own House uncontaminated by secret Corruption, may they not with Reason resent your defeating so upright a Design? May not it occasion a Breach of that Harmony, which we ought to endeavour to promote between the two great legislative Branches? And will not the whole Nation espouse their Cause, and warmly join in their honest Indignation?

On the other Hand, were it possible to suppose, they meant nothing by this Bill, but to delude their Constituents, by an Appearance of Zeal against that malignant Influence, which may make those that were chosen as the Guardians, become the Subverters of the Liberty of their Country, would it be consistent with your Dignity, with your Duty to God and Man, to be accessory to the abominable Craft? No, my Lords, this House can never sink so infamously low, as to co-operate in so mean, so contemptible, so profligate a Jobb: You may be yourselves deceived, but you are incapable of deceiving.

A private Pension is a Breach of Trust; and if you refuse your Assent to this Bill, you in some Measure give a Sanction to the Infringment of those Laws it is intended to enforce.

The noble Lord's Argument drawn from the four Journals, he ordered to be read, concludes nothing, but that it was, at those Times the Sense of the House to reject Bills of the same Nature. But, my Lords, there are many Lords now present, who did not sit in this House at any one of the Periods refer'd to; and the Commons, after having been four Times defeated, offering this Bill to your Lordships, is a Proof of their Opinion of the absolute Necessity of such a Law.

It was observed by the noble Lord, that the Time is improper: Far otherwise is my Opinion; for at an Hour when the Situation of Affairs obliges the Parliament to impose heavy Burdens upon a Nation, already labouring under the severe Pressure of an enormous Debt, are we not directed by Justice and Prudence to give them the utmost Proofs in our Power, of the Integrity of those Persons, by whom the oppressive Taxes must necessarily be impos'd.

The noble Lord hath said, passing this Bill would be a Slur upon the Commons. Surely it cannot be esteemed in that Light, as they begin it themselves; for if by the Bill's passing their own Assembly, the Slur be not cast, the enacting so upright a Bill, cannot reasonably be judged so. A Parliament in the 2d of Henry VIIIth pass'd an Act to annihilate all the Debts the King had contracted upon Loans. The Reason

Reason given by Historians is, that it was filled by his Majesty's Servants, with whom Justice had not so much Weight, as Complaisance to the Crown.

Ann. 13 Geo. II.

1739.

The Numbers of Placemen in that Parliament are not specified ; but, I believe, they did not amount to near three hundred in both Houses, nor is there mention made of a single Pensioner. The Parliament stigmatized by the Name of the pensionary Parliament, proposed an expurgatory Oath, to clear themselves from that Aspersions, containing many Particulars, one of which was, That each Member should swear, he had never given his Vote in Parliament, for any Reward or Promise whatsoever. I sincerely wish that, to gratify the People, the same, or such another Oath, should now be taken ; and as the Oath proposed by this Bill will, I think, be rather more effectual, therefore I am for the Bill's being committed, and hope it will be passed into a Law.'

The Earl of *Hallifax*.

' My Lords, Unfit as I am, to offer my Thoughts to The Earl of your Lordships, I shall undertake the Task with Pleasure, *Hallifax*, whenever my Duty calls me to it. I was in Hopes, however, that I should have had no Occasion of troubling your Lordships to Day ; I was in Hopes, that this Bill, calculated for the Independency of Parliament, after having received the unanimous Sanction of the House of Commons, would not have met with an harder Fate within these Walls. I must confess, I am in the greatest Difficulty, my Lords, how to reconcile the Opposition it finds, with the warm Zeal for the Freedom of Parliament, and the tender Regard to the Constitution of it, which your Lordships have shewn upon so many other Occasions. I am still more at a Loss, my Lords, when I consider the Weakness of Argument, and Shadow of Reason, upon which such an Opposition is founded.

Every Friend to the Revolution must be zealous for fully obtaining those noble Ends proposed by it ; but this, my Lords, can never be, till the Independency of Parliament is secured. To gain this essential Point must be the Wish of every honest Heart ; and tho' many Difficulties may occur, before the great Scheme be complete, yet every Step we take against the undue Influence of Power, still farther removes from us that fatal Danger, by which this Country may one Day fall. We have less to fear, my Lords, from a foreign Power abroad, than from a ministerial Power at home. This the House of Commons is sensible of ; and, fearing, they have not sufficient Security for the Independency of their

Ann. 13 Geo. II.
1739.

Members, desire your Lordships Concurrence, to strengthen it, and to enforce those Laws already in Being, against those notable Friends to Liberty, called Pensioners: And shall we, my Lords, frustrate the good Design? Shall we refuse them the Security they ask? and shall not the same Reasons that weighed with our Ancestors to enact Laws, weigh with us for the Enforcement of them? were they not, my Lords, I should be apt to believe what I have often with Concern heard, when I was abroad, That the *English* have the best Body of Laws now extant in the World, but want the Execution of them.

One Objection, my Lords, that has been made to the Bill by the noble Lord who spoke first is, That it would multiply Oaths. If Oaths are ever necessary, it is upon such Occasions as these, when a Man enters upon the great Trust reposed in him by his Constituents. We swear to our King; This is an Oath to our Country. Many Men, my Lords, will break their Words, who dare not violate their Oath; and Fear has often an Effect, when Conscience has none. I can easily believe, my Lords, that there will be many wicked Men in future Times, who wou'd betray their Trust, evade the Acts of Parliament, and receive their Pension, if they cou'd avoid the Penalty due to Perjury. — They wou'd hazard their Expulsion, so they escap'd the Pillory.

Another Reason, my Lords, that pleads strongly with me for this Oath of Purgation, is the Difficulty a House of Commons is like to meet with, in the Discovery of their prostituted Members. If a future Minister should follow the generous Example of some of his Predecessors, all Papers, all necessary Informations would be denied, and Corruption be as secret as it is destructive. Is it to be imagined, that a Man vile enough, unlawfully to receive a Pension, would be also weak enough to avow it himself? Knavery and Cunning are too often joined, to expect it. Is it to be supposed, that a corrupting Minister will ever confess, where he unwarrantably extends his Bounty?

It has also been said by the noble Lord, that passing this Bill would prove a Suspicion of the Government. A free People, my Lords, must always be suspicious; and Liberty must ever be upon its Guard. Many, perhaps, my Lords, think, they have just Grounds for Suspicion, when a Multiplicity of Places, a numerous standing Army, an Increase of Taxes, and an immense Civil List, have, during so many Years of Peace, borne hard upon the Subject. As to myself, my Lords, I am disposed to be much more candid in my Opinion; and I wish I could persuade myself, that as such
infinite

infinite Sums of Money pass thro' other Channels, there was but little left for the worthy Pensioners ; but, I fear the Case is different . I fear, my Lords, 'tis too easily to be proved, that if his Majesty's Civil List was exonerated of all unnecessary Pensions, he might afford (as Queen *Anne* did, out of a much less Civil List) 100,000 *l. per Annum*, for the Support of the present War. Thus every loyal Heart, unbrib'd, unpensioned, would be zealous in his Majesty's Service ; and his Throne would be strengthened (if possible, more than it is at present) upon that only true Basis of Royal Power, the Affections of his People.

Ann. 12 Geo. II.

1739.

I have ever been, my Lords, and I hope I ever shall be, an Enemy to Corruption ; but of all the Variety of Corrupted, surely Pensioners, if there ever are any such in an House of Commons, are the lowest Sect. They have no Title, no Pretence, to the Salary they receive. All their Merit is their Vote ; and even that is a Disgrace when the Freedom of it is lost. They neither serve their Country, nor truly serve their King. They are the humble Servants to a Minister, whose Orders they obsequiously obey, whatever be his Conduct with regard to his Master's Interest. Placemen may be honest, but Pensioners in the House of Commons never can. They violate the Laws of their Country, when they are first hired ; and when they enter upon their Pay, they commence Enemies to the Public. Those who are brib'd, my Lords, are far less guilty than such Pensioners. Some Author I've read, makes this Distinction between a Pension and a Bribe : A Bribe, he says, is given for a particular Jobb, a Pension is a constant, continual Bribe. The Jobbers are only a Sort of Day-labourers ; but Pensioners are domestic Servants, hired to go thro' all the dirty Business of the House. As they receive a Minister's Wages, I wish they had also worn his Livery ; and thus the Discovery of them had been easily made, without perplexing your Lordships with this Bill. The *Jews* of *Rome*, my Lords, because it is apprehended, so great a Number of them may some Time endanger the State, as a Mark of their Religion, are obliged to wear a Piece of yellow Linen upon their Hats. I wish, my Lords, we had some such Institution for the unlawful Pensioners ; for as many of the *Jews* chuse rather to quit the City, than bear about this Mark of Infamy, so I flatter myself, we should have got rid of a considerable Number of our Pensioners, as soon as their virtuous Characters were known by their yellow Caps.

I am sure, my Lords, I need trouble your Lordships no more to prove the dangerous Consequences that may accrue to the Public, from the Violation of our Laws against these Hirelings. Whether this Bill will be effectual, whether it

Ann. 13 Geo. II. will entirely stop this Channel of Corruption, I'll not pretend to say ; but something must be done : Let us not refuse a good Thing, because it is not the best ; or be averse to remedying Part of the Evil, because we cannot get rid of the Whole. The Freedom of Parliament has never been lost, or recovered, but by Degrees ; and, if your Lordships have a Mind to amend and strengthen this Bill, let it be referred to a Committee appointed for that Purpose. Any Thing, my Lords, rather than reject the Bill with Contempt, as if the Independency of Parliament were a Point not worthy this Assembly's Consideration. My Lords, it is most particularly our Care ; and tho' some paltry, venal Writers of these Days, have endeavoured to palliate and justify the Guilt of Corruption, any, even to prove it necessary for the carrying on of Government, yet, I am persuaded, that Systems so inconsistent with our Constitution, have ever been abhorred by your Lordships.

However public Virtue hath been derided : However the honest Support of our Country's Cause have been misconstrued Resentment, Spleen, Malice, and Disaffection, yet Patriotism is a Virtue that, I hope, will always recommend itself to Parliaments, since Parliaments can only subsist by it. To give the World a Proof that such Virtue is still amongst us, let us give our Concurrence to this Bill ; and thus shall we put it out of the Power of future Malice to say, that the invidious Task of throwing out this Bill was, with Success, laid upon us, and that we submitted ourselves to the unpopular Burden, too heavy for the Commons.

The Lord Hinton.

*The Lord
Hinton.*

‘ My Lords, however unpopular, however invidious it may appear, to oppose this Bill, yet, I think myself in Duty obliged to take the Task upon me ; because, I think it a most unnecessary Innovation of our Constitution ; and an Innovation that will certainly be of the most fatal Consequence to the Morals of the People. It has often been the Fate of this House, my Lords, to withstand unreasonable Prejudices that have been artfully raised among the People ; and the more general or violent such Prejudices may grow, the more zealous ought we to be for preventing the dangerous Effects they may produce, either in the Nation or upon our happy Constitution. For this Reason, so far from yielding to any popular Outcry on Account of its being general, I shall always be for examining coolly into its Foundation, and where I can find

find no solid Foundation, I shall never be for rearing a new Ann. 13 Geo. II.
Fabrick, or any Addition to the old. 1739.

I know, my Lords, a great Outcry has of late been most artfully raised against Corruption; and, I believe, there are many well-meaning Men who think there is some Ground for it; because it is natural for Mankind to indulge their own Vanity and Self-conceit, by imagining that those who differ from them, especially in Politics, are governed by any other Motive rather than that of Reason; and as Corruption is the most obvious Motive that can be imputed to those that approve of the Measures of a Court, therefore those that disapprove, of course suppose, that most of their Antagonists are influenced by Corruption. But this to me is no Proof, nor so much as a Presumption. It is from Court-Measures alone that I am to judge; and if those Measures have been such as I thought reasonable, I cannot suppose, Charity will not allow me to suppose, that any Gentleman in either House of Parliament was, from corrupt Motives, induced to approve of them.

This, my Lords, is my Way of judging: I hope it will be allowed to be a reasonable Way of judging; and if it is, I am sure it must be allowed by a great Majority of this House, that there is at present no solid Ground for the Outcry that has been lately raised against Corruption. I shall agree with the noble Lords who appear so zealous for this Bill, that our Constitution may hereafter, and by some Changes in the Situation of our Affairs, come to be in Danger from Corruption; but, if we were to think of providing against every possible or distant Danger that might be suggested by a gloomy and fertile Imagination, we should never be a Moment at Rest, nor our Constitution a Twelve-month the same. The noble Lord who spoke last has allowed, that the Liberties of a Country were never lost, but by Degrees; therefore he must allow, that our Liberties cannot at once be swallowed up by Corruption. It must come upon us by Degrees; and of all Dangers to which our Constitution can be exposed, that of Corruption must make the most slow and gradual Approaches. We have already many Fences against it, Fences which, in our present Situation, I think insurmountable; but, if I should hereafter find myself mistaken, I shall be as ready as any Lord in this House to add new Fences, and to repair the old, in as strong and effectual a Manner as possible. This we shall have sufficient Time to do, because we cannot but perceive the Approach of so dangerous an Enemy, by the Effect it must have upon one or other House of Parliament; for if we should find the Parliament approving of public Measures that are in themselves either weak or wicked, we must then suppose,

Ann. 13 Geo. II.
1739.

suppose, that Corruption has begun to break through our former Fences, and then, indeed, it will be Time to think of providing some new Defence.

The present Bill, therefore, can appear necessary to none but those who think, that the Parliament has of late approved of some weak or wicked Measures of Government; and as I am far from thinking so, I cannot agree to the committing or passing of this Bill, especially as I am of Opinion, that it would have a most fatal Effect upon the Morals of the People. I believe, it will be allowed, that there is nothing of more dangerous Consequence to the Happiness of Society, than a general Contempt of Perjury among the lower Sort of People; and we know how ready the lower Sort are to follow those Examples that are, or which they suppose to be set them by those of superior Rank. I am far from supposing, that any Gentleman of the other House has a secret Pension from the Crown, and far less shall I suppose, that if any one of them had, he would solemnly declare upon Oath, he had no such Thing; but, my Lords, it is impossible for any Gentleman to guard absolutely against the Reproach of malicious Tongues, or to prevent that Reproach being believed by a great many. There are now, there will always be some Gentlemen in the other House, reproached with having private Pensions from the Crown; and this Reproach will always be believed by many without Doors. If this Bill should pass into a Law, every Gentleman so suspected must swear, that he has no such Pension. Would his Swearing so remove the Reproach? No, my Lords, it would add to it a new Reproach of a much more heinous Nature; for many without Doors would believe, he swore falsely; and many of the meaner Sort, being confirmed in this Belief, would, from the Example supposed to be set them by a Gentleman of such Rank and Figure in his Country, begin to lose that Veneration every Man ought to have for an Oath; by which Means Perjury might at last become contemptible among the Vulgar; and this would of course lay open the Flood-gates of all other Sorts of Wickedness.

From this Consideration, my Lords, if our Liberties were now in Danger from Corruption, if some new Remedy were necessary for putting a Stop to that Evil, I should nevertheless be against this Bill; because the Remedy would bring on a greater Evil than that which it is intended to cure. But as, I think, we are at present, whatever may be pretended, in no more Danger from Pensioners in either House of Parliament, than we are from the *Jews* in the City of London, I think it as unnecessary to provide any new Remedy

medy againſt the former, as it would be to put yellow Caps upon the latter ; and I believe, the noble Lord himſelf does not think it neceſſary, or that it would be proper, to put any Mark of Diſtinction upon the *Jews* that reſide in this Kingdom : Nay, I believe, he will grant, that the Danger apprehended at *Rome*, which was the Occaſion of putting a Mark of Diſtinction upon them there, was rather imaginary than real ; and that it was ſuggeſted by that ſelfiſh, narrow, perſecuting Spirit, which clapt Tails to the *Heretics* in *Spain*.

But why, my Lords, ſhould we give ſo much Attention to this Outcry againſt Corruption, and yet wholly diſregard that Outcry againſt Reſentment, Malice, Envy, Diſaffection, and Sedition, which prevails among another Set of Peopole ? For as no Man is willing to ſuppoſe, that any Difference from his Opinion proceeds from Reaſon, the Friends of the Adminiſtration are as apt to impute the Oppoſition to theſe Motives, as the Oppoſers are apt to impute an Approbation of the Government's Meaſures to Corruption. For my own Part, I am ſo charitable as to believe, that both Sides are governed by their Reaſon ; and therefore, if it ſhould be thought neceſſary to oblige the Members of the other Houſe to ſwear, they had never given their Vote in Parliament for any Reward or Promiſe whatſoever, I ſhould think it neceſſary, at the ſame Time, to oblige them to ſwear, they had never given a Vote in Parliament, out of Reſentment, Malice, Envy, Diſaffection, or Sedition ; for, I think the Man, who is under the Government of either of theſe, as far from being a free Agent, as he that is under the Influence of Corruption.

The Earl of *Carlisle*.

‘ My Lords, When one conſiders the Nature of this Bill, it is really amazing to find it meet with any Oppoſition in this Houſe. It is ſo far from being an Innovation with reſpect to our Conſtitution, that it can ſcarcely be ſaid to be a new Law ; becauſe the ſole Intention of the Bill is, to amend and enforce Laws that are already in Being, and Laws too which were made to obviate and prevent a Practice that has often been uſed, and that has always been acknowledged to be of dangerous Conſequence to our Conſtitution. To pretend that we are not at preſent in any Danger from the private Penſions that may be given to Members of the other Houſe, muſt appear abſurd to every Man, that conſiders the Nature of Miniſters, or the Nature of Mankind. My Lords, it is a Danger we can never be free from, nor can ever ſufficiently guard againſt, as long as it is

Ann. 13 Geo. II.
1739.

Ann. 13 Geo. II.

1739.

is in the Power of a Minister to give, or of a Member to receive. It is absolutely necessary for a Minister to have the Consent or Approbation of Parliament in almost every Step of his Conduct; therefore, from the very Nature of Ministers we may suppose, that if he cannot obtain such Consent or Approbation by his Authority, he will endeavour to obtain it by his Power; and from the Nature of Mankind we must suppose, that among such a Number of Men as are in the other House, the Minister will always find some of them ready enough to prostitute their Consent or Approbation for a considerable Bribe or annual Pension. Thus we must always be exposed to this Danger, and we are now a great deal more exposed to it than ever we were heretofore; because our Ministers now have infinitely more to give, and Custom or Example has, I'm afraid, greatly added to the Number of those that are ready to receive.

This, my Lords, the Gentlemen of the other House are fully sensible of, and therefore they have endeavoured, by this Bill, to add to the Strength of those Laws, which were made for guarding against a Danger that has greatly increased since the last of them was enacted. By this Bill there is no Alteration made in our Laws or Constitution: There is no Man excluded from having a Seat in the other House, but those who, while they sit there, are guilty of a continued Breach of the Laws of their Country, and would certainly be not only expelled but prosecuted, if their Crime could be discovered and proved. By the very Act of Settlement itself, my Lords, it was expressly enacted, amongst other Things, That no Person having a Pension from the Crown, should serve as a Member of the House of Commons; and though this Clause was in general repealed, by an Act of the 4th and 5th of Queen Anne, yet it was then again thought so reasonable to exclude Pensioners from having Seats in the other House, that it was a-new enacted, That no Person having any Pension from the Crown during Pleasure, should be capable of being a Member of any future House of Commons; and by an Act of the first of the late King, this Incapacity was farther extended to all Persons having any Pension from the Crown, for any Term or Number of Years, either in their own Names, or in the Name of any other Person in Trust for them, or for their Benefit. Thus your Lordships see, that by the Laws now in Being all Persons who have Pensions from the Crown during Pleasure, or for any Term or Number of Years, are rendered incapable of having Seats in the other House; and by these Laws great Penalties are inflicted upon those, who

who presume to break through them. But as no Provision has been made by either of these Laws for discovering secret Offenders, and as every Man must be sensible that such Pensions may be given privately, the Gentlemen of the other House have thought it necessary, and, I hope, your Lordships will think it necessary, to provide the best Remedy that can be thought of for this Defect, which is the chief, and indeed the sole Intention of this Bill.

Ann. 13 Geo. II.
1739.

I cannot help, therefore, being astonished at its being pretended, that this Bill will occasion any Alteration or Innovation in our Constitution; and there is nothing convinces me more of the Necessity there is for passing it, than the Circumstances of the noble Lords, who, I find, oppose it. To the Honour of the Administration in the first Year of the late King, I must observe, that the Law past at that Time, for excluding Pensioners from the other House, was introduced by a Secretary of State, and approved by most of those in the Administration; and it was prudent and right in them to do so. A Minister that has no Intention to make use of Bribery and Corruption, has no Occasion to oppose any Bill that can be thought of for preventing such infamous and illegal Practices; and therefore, when I find such a Bill opposed by those who are the known Friends of a Minister, it will always be a prevailing Argument with me, not only to think that there is a present and pressing Necessity for such a Bill, but also to think that the Bill proposed will be in some Measure effectual. Whether the L. now before us will be altogether effectual, is what I shall not pretend to determine; but I am convinced, both from the Nature of it, and from the Opposition it meets with, that it will have some Effect. It will at least raise the Price of Prostitutes, because the more Risk a Man runs, the higher Wages he will of course expect; and the higher you raise the Price of those who are liable to be corrupted, the more difficult will every future Minister find it to corrupt; so that at last you may render the Practice impossible, notwithstanding the many and great Boons our Ministers have now to bestow; and then they must think of gaining the Consent or Approbation of Parliament by their Authority in Persuading, and not by their Power in Corrupting.

But suppose it were your Lordships Opinion, that this Bill would be altogether ineffectual, can this be a Reason for not committing it? If the Intention of the Bill, if the Principle upon which it is founded, be right, the Imperfection of it is no Reason against committing it; because in the Committee you may alter and amend it, so as to

Ann. 13 Geo. II.

1739.

remove every Imperfection ; therefore, I must think, that the noble Lords who oppose committing it, disapprove of the Principle upon which it is founded, and, indeed, most of their Arguments seem to tend that Way. Such a Bill's having been rejected by this House in former Sessions, is no Reason for our rejecting it in this. Some of the best Laws that were ever made, have at first met with the unlucky Fate of being rejected. The Triennial Bill was at first rejected by this House, and yet the very next Session it was approved of and passed by this House ; and tho' it was at that Time rejected by the Crown, yet in the next following Session, it met with the Approbation of the three several Branches of our Legislature, and was accordingly passed into a Law. That Law, 'tis true, has been since repealed, but nevertheless, it has always been deemed by a great Majority of the Nation, to be an excellent Law ; and many of those who joined in the Repeal of it, I believe, now heartily repent of their having done so. But the very Repeal of that Law is a strong Argument in favour of the Bill now before us ; for the longer the Term is, for which the Representatives of the People are chosen, the greater Security ought the People to have, that those Representatives shall not, from any selfish View, betray the Interest of their Country in Parliament.

To pretend, my Lords, that we ought never to think of guarding against Pensioners in the other House, till we find the Majority of that House approving of some weak or wicked Measures of Government, is the very same with saying, that no Man ought to think of repairing his House, till it has tumbled down and overwhelmed him in the Ruins. Will Pensioners ever acknowledge, that they have agreed to any weak or wicked Measure ? Will a Pensioner ever agree to give up the only Tenure by which he holds his Pension ? And if the Majority of the other House should once come to be pensioned and corrupted, could it be expected, that such a House of Commons would ever concur in passing any Law against pensioning and corrupting ? I can freely declare that, in my Opinion, many Things have of late Years met with the Approbation of both Houses of Parliament, that very little deserved it. I believe there are very few Lords in this House, that will now approve of every Thing that has, for these twenty Years past, been approved of by Parliament ; and therefore, if every Lord makes this the Standard for his Opinion of this Bill, I have no great Doubt of its meeting with the Fate it deserves. Whether the undeserved Approbation some late Measures have met with in Parliament, was owing to the Number of Pensioners in the other House,

House, I shall not pretend to determine : I shall not even pretend to affirm, that there are at present any Pensioners in that House ; but when we see Members obtaining very great and lucrative Posts for their Brothers, Sons, or distant Relations, it cannot but occasion a Suspicion, that they have a Fellow-feeling in the Salary or Perquisites ; and this Suspicion is a good Reason for passing this Bill. But suppose there were no such Suspicion : Suppose we were absolutely certain that there are at present no Pensioners in the House of Commons, there is a Possibility, nay a very great Probability, that there will be such, as soon as we have the Misfortune to fall under the Government of a Prince, or Administration of a Minister, whose Projects or Schemes cannot be supported by Reason ; for every one must see, that the Laws in being are not sufficient for guarding against the Mischief.

Ann. 13 Geo. II.

1739.

By the Laws now in being, my Lords, it is made criminal for any Man that accepts of a Pension to keep his Seat in the other House ; but those Laws have provided no Method for discovering and proving that Crime ; and as a Pension may be given, as infamous Pensions are generally given, without allowing any Person to be privy to it but the Corrupter and the Corrupted, if you have a Mind to prevent the Practice as far as lies in your Power, you must put it to the Oath of one of the Parties, which is the Design of this Bill. I shall not say, that Method will be in every Case effectual : I shall admit, that some Pensioners may be abandoned enough to add Perjury to their Treachery, and to declare upon Oath, they have no Pension, in that very Assembly where they earn their infamous Wages, and perhaps in the very Face of him, who pays them. But what is proposed by this Bill is, my Lords, the utmost you can do : It will be a Sort of Test-Act upon Pensioners ; and surely those who are so solicitous about keeping the Dissenters in subjection to a Test-Act, cannot refuse to subject those who are suspected of being Pensioners, to the same Method of Purgation.

The Test-Act against Dissenters, my Lords, was never yet thought sufficient for preventing Occasional Conformity ; and yet, no true Lover of the Church ever thought it ought, for that Reason, to be repealed. The Test designed by this Bill against Pensioners, may not, perhaps, be sufficient for keeping all of them out of the House of Commons ; yet, no true Lover of our Constitution can, for that single Reason, think, it ought not to be imposed. It will have some Effect : I believe it will have a very great Effect ; because of the Danger a Man must, in this Case, run, by taking a false Oath. The Revenue of a Gentleman, who is no Trader or Gamester, is generally pretty well known ; and

Ann. 13 Geo. II. his yearly Expence may be pretty nearly guessed at by his
 1739. Neighbours and Servants. This upon a strict Enquiry, will always afford a strong Presumption against him; and, as the Person that pays him his Pension, may afterwards turn Evidence against him, he can never be absolutely secure against a Conviction, which will, I believe, terrify most Men from being guilty of the Crime.

I find some Lords are, upon this Occasion, extremely apprehensive of corrupting the Morals of the People, by a Multiplicity of new Oaths: I with the same Apprehensions had prevailed, when such an infinite Number of Oaths were contrived, for collecting our Customs and Excises. Most of those Oaths are to be taken by Multitudes of People, and in Cases where there are great Temptations for Perjury: The Oath now proposed, is to be taken by none but Members of the other House, and the Temptations to Perjury can never be great or frequent, but when our Constitution is in the utmost Danger. It is therefore something strange, that we should be so little apprehensive of corrupting the Morals of the People by a Multiplicity of Oaths, when we are contriving Methods for preserving the Revenue of our Sovereign, and so very apprehensive of the like Effect, when we are contriving Methods for preserving the Constitution and Liberties of our Country. A Foreigner, upon considering this Behaviour, would be apt to judge, we had very little Concern about the latter, provided we could but enjoy a Share of the former; and, if we should reject this Bill, without much better Reasons than I have yet heard against it, I fear, most of our own People will join in forming so false an Opinion of this honourable and august Assembly.

Your Lordships must be all sensible, how prevalent the Jealousy is at present, of there being a great Number of Pensioners in Parliament: The Gentlemen of the other House have endeavoured to allay that Jealousy, and to vindicate the Honour of their Assembly, by sending us up this Bill. If it should be thrown out here, what will the Nation think? Will it not be generally supposed, that it is in this House where the Number of Pensioners prevails, and that here the Pensions have their most infallible Effect? Or, perhaps it will be supposed, that there are Pensioners in the other House as well as in this, but that the Pensioners in the other, for the Sake of recommending themselves to their Constituents, had Leave from their Masters to agree to this Bill, because those Masters knew, they could depend upon the Number and Submission of their Pensioners in this, for throwing it out. I am very sensible, my Lords, there is no real Ground for either of these Suppositions; but those without Doors, who do not know the Reasons upon which your Lordships proceed, when they find
 a Bill

a Bill rejected which make no Alteration in our Constitution, Ann. 13 Geo. II.
1739.
 which does not so much as make an Alteration in any former Law, which contains nothing but an Enforcement of the Laws in being against Pensioners; such Persons, I say, may think, they have Reason to make one or other of the Suppositions; and should not we be extremely cautious of giving the least Shadow of Reason for judging so unworthily of our Assembly?

I do not know, but that some of your Lordships may be of Opinion, that the Laws now in being, for excluding Pensioners from the other House, are inconvenient, and therefore wish they were repealed: If they are so, let them be repealed; for we ought not to sit here, and suffer any Laws to remain in Force, that are inconvenient to the Society. But, if they are not inconvenient: If they are necessary for guarding our Constitution against Corruption the most dangerous, because it is the most secret Enemy to a free State, they ought to be enforced, they ought to be rendered effectual, by all the Methods that can by the Wit of Man be invented, or by human Power exercised. In Cases of such a secret Nature we must, we ought to call the divine Power to our Assistance, by interposing the religious Solemnity of an Oath. By interposing an Oath, my Lords, in Matters of great Consequence, and which cannot frequently occur, we shall never render the Solemnity familiar and contemptible; and where is there a Matter of greater Consequence, on this Side the Grave, than the Preservation of the Constitution of our Government, and Liberties of our Country? It is by interposing an Oath in trivial Matters, in such as frequently occur and chiefly affect the meaner Sort, that we render the Solemnity familiar and contemptible to the Vulgar, and I wish the Invention of some of those who are supposed to be no Friends to this Bill, had, in this Respect, been less fruitful.

My Lords, as the Laws now in being, for excluding Pensioners from the other House, must, to every Man that considers them, appear to be altogether ineffectual, if this Bill be rejected, I shall, even in my Time, if I live but a very few Years, expect to see the other House full of Pensioners. I shall expect to see a Minister in that House, out of a Wantonness of Power, by his sole ——— No ——— throw out a Bill of the utmost Importance, without deigning to give his Slaves so much as one Reason for what he obliges them to do. This, indeed, if it should ever happen, I shall look upon as a Sign of his Power, but not of his Prudence; and, I may prophesy, that if ever a Minister should get such a Power over the other House, his Power in this will be as absolute, and equally insolent.

The

Ann. 13 Geo. II.

1739.

The Earl of Cholmondeley

The Earl of
Cholmondeley.

‘ My Lords, I shall always be as ready as any Lord in this House, to enforce the Laws now in being, for excluding Pensioners from having Seats in the House of Commons: I shall readily concur in any Method that may be proposed for that Purpose, provided it be such a one as I think consistent with our Constitution; but when the Method proposed, evidently tends to the Overthrow of that Constitution, which we all shew, and I hope sincerely, so warm a Zeal for preserving, I hope I shall always have Virtue and Resolution enough, to give it my Negative, let the Consequence be what it will. If the Laws now in Force, for terrifying a Pensioner from keeping his Seat in the other House, are not sufficient, I hope some Method will be found out, for rendering them so, without giving such a Power to the other House, as must soon overturn our Constitution, which, I think, would be the certain Effect of the Bill now before us; for it would shew very great Imprudence, as well as great Ignorance of our Constitution, if we should expose ourselves to a new Danger, for the Sake of avoiding a Danger of a different Nature, which we are already pretty well, if not effectually, guarded against.

By the Law of the 4th and 5th of Queen *Anne*, my Lords, mentioned by the noble Lord who spoke last, it is enacted, That if any Person having a Pension from the Crown during Pleasure, shall sit or vote in the other House, he shall forfeit 500 *l.* to such as shall sue for the same. And by the Act of the 1st of his late Majesty, likewise mentioned by the same noble Lord, it is enacted, That if any Person having a Pension from the Crown, for any Term or Number of Years, either in his own Name, or in the Name of any other Person in Trust for him, or for his Benefit, shall presume to sit or vote in the other House, he shall, in such Case, forfeit 20 *l.* for every Day in which he shall so sit or vote there, to him who shall sue for the same.

These Penalties are so high, that in my Opinion, my Lords, no Gentleman of Fortune will run the Risk of incurring them, for the Sake of any Pension the Crown can bestow; and we know, that none but Gentlemen of Fortune can be chosen Members of the other House. For this Reason, notwithstanding the Suspicions that prevail, and are most industriously propagated, without Doors, I cannot think, that there are at present any Pensioners in the other House; and, indeed, from the very Nature of Things, I am convinced of it. No Prince, no Minister, will ever give a Pen-
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tion, for the Sake of engaging a Man's Vote in Parliament, Ann. 13 Geo. II. unless there be an absolute Necessity for so doing; and whilst a Prince, or Minister, desires nothing of Parliament, but what is reasonable, and agreeable to the public Interest, there can be no such Necessity; for however much some Men may be actuated by Malice or Disaffection, as long as the Administration pursues no Measures, but such as are necessary for securing the Happiness of their Country, I hope they will always find a Majority in both Houses of Parliament, ready to approve of such Measures, without any Pension or Reward. This has, in my Opinion, been the Case, I shall venture to say, ever since the Accession of our present Royal Family; our Ministers may, perhaps, have thought of some Measures that were disagreeable; but as soon as they found they were so, they have always given them up: And some Things have, perhaps, afterwards appeared not to have been so right; but at the Time they were resolved on, they appeared otherwise; and our Parliaments will, I hope, be always ready to forgive human Frailty, in all Cases where no Neglect or Oversight can be imputed to the Authors or Actors.

This, my Lords, is my Opinion of our late Conduct, and therefore I cannot suppose, that there are at present any Pensioners in the other House, or any Pensioner in the Nation, but such as are entitled to it out of Charity, or such as have merited it by their past Services to the Public. I shall admit, that a prudent Man will take Care to repair his House before it tumbles about his Ears; but a prudent Man will not put himself to the Trouble and Expence of repairing his House, when no Flaw or Defect appears in any Part of it; and if it should ever appear from Experience, that our Laws for excluding Pensioners from the other House, are in any Respect deficient, I hope those who have a Regard for the Liberties of their Country will take the Alarm, Time enough to get that Defect remedied, before the most artful Minister can secure such an abandoned Majority of Pensioners in the other House, as to render the Cure impossible; for it is an old Maxim, *Nemo repente fit turpissimus*, and this Maxim may be apply'd to an Assembly, with as much, if not more Justice, than to any single Man.

But suppose, my Lords, I were convinced, that these Laws had by late Experience been found deficient, I should nevertheless be against the Method proposed by this Bill for removing that Defect; because, I think the Remedy more dangerous than the Disease. Our Constitution, my Lords, and the Happiness of it, consists in an equal Mixture of
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Ann. 13 Geo. II.
1739.

three principal forms of Government; and therefore, no new Regulation ought to be made, that visibly tends to destroy that Equality, or that Ballance, upon which our Constitution depends. We have as much Reason to avoid every Thing that may tend to the introducing of a Republican Form of Government, which generally ends in an absolute Tyranny, as we have to avoid those Things that may tend to the introducing of an absolute Monarchy. In all such Cases, we should consider, that we are steering between *Scylla* and *Charibdis*; and that by too cautiously avoiding the one, we may make a Wreck of our Constitution upon the other. For this Reason, we ought of all Things to be cautious of vesting any new and distinct Powers in the other House; and as this Bill vests in them a new Power, which they are to exercise separately and distinctly by themselves, and without the Concurrence of either of the other two Branches of our Legislature, I think it would expose us to the Danger of falling under a Republican Form of Government, and consequently, an absolute Tyranny, a great deal more than we are at present exposed to the Danger of falling under an absolute Monarchy.

I know, my Lords, that great Endeavours have of late been used, to persuade the People, that there is a great Number of Pensioners in the other House, and as those of an inferior Rank are naturally suspicious, as well as envious of their Superiors, these Endeavours have, I believe, succeeded with a great many, so as to make them fond of this Bill. As their Penetration is not generally very extensive, they do not see the fatal Consequences it is attended with; and, therefore, they suppose, that none but those who pay or receive Pensions, can be against it. I am, therefore, sensible, I undertake a very unpopular Task, when I oppose this Bill; but I disdain a slavish Popularity, as much I should disdain a slavish Submission to the Pleasure of any Prince or Minister. The Favour of the People may, I know, be acquired by humouring the Prejudices, as well as the Prince by his Passions; but this Sort of Favour is, in neither Case, of any long Duration. The People by their Prejudices, as well as the Prince by his Passions, generally soon lead themselves into some Misfortune; and as soon as this happens, the Parasite, in both Cases, becomes hateful and contemptible.

For this Reason, my Lords, we ought in no Case that comes before us, to give ourselves any Concern about what the People may think without Doors. We ought to consider only the Circumstances of the Case, as they appear to us; and when we do this deliberately, and resolve accordingly, the People without Doors, as soon as they have had

had Time to hear and consider our Reasons, will generally approve of our Resolutions ; and will then begin to hate and despise those, who endeavoured to prepossess them with a bad Opinion of either House of Parliament.

Ann. 13 Geo. II.

1739.

The Duke of *Argyle*.

‘ My Lords, we are now upon a Bill for putting an End to, or at least preventing one Sort of Corruption in the other House ; and from the Opposition the Bill meets with here, and the imaginary Dangers that are suggested for supporting, or rather excusing that Opposition, those who are not personally acquainted with the noble Lords, who have spoke upon that Side of the Question, would, I think, be apt to suppose their Opinion to be, either that Corruption is now become a necessary Evil, without which the Forms of our Government could not be preserved, or that it is an Evil of very little Consequence, and not at all inconsistent with the Substance of a free Government. Corruption, my Lords, has always hitherto been allowed to be vile, to be dangerous. I have, for my own Part, discouraged it in all Stations : I shall always disdain the Obedience, or the parasitical Sort of Assent that is to be gained only by Corruption ; and I have always been sorry, when I observed it was not equally discouraged by others ; for if it were no Way encouraged by those in high Stations, it would never be possible for the Mode in any Country to cover that Infamy, which naturally attends the Corrupted ; nor would the Quality of the Offender ever atone for the wretched Meanness of the Offence.

I need not trouble your Lordships with explaining what is, in this Country, meant by a legal Administration : Every one knows what it is ; and every one knows, that it may be easily supported without Corruption. Ministers, my Lords, (for according to our Constitution, we ought always to have a great many of them) that have nothing in View, but the public Happiness, and who have Wisdom and Discernment enough to pursue that steadily, may despise the Assistance or Approbation of those, who assist or approve, only because they are paid for so doing. Such an Administration will always have the Majority of the Nation of its Side, and consequently may, without any corrupt Means, have always a Majority in Parliament. Therefore, a legal and a wise Administration can never stand in Need of Corruption, for the Exercise of any of its Functions ; but an illegal one, an Administration consisting of one sole and

Ann. 13 Geo. II.
1739.

arrogant Minister, who will admit of no Partner or Assistant, but such as implicitly submit to his Direction, can never be supported without Corruption: It is against Law, and against Law it must be supported. Under such an Administration, indeed, the Forms of our Government cannot be preserved, without evading or violating our Laws against corrupt Practices; but under such an Administration, while it lasts, the Substance of our Constitution must be suspended, and we had better be without the Forms; for preserving the Forms of a free Government will only serve to lull and keep the People asleep, till their Chains are rivetted, and till one sole Minister has so firmly established his Power, that it may be easily transmitted to, or taken up by another. Many of our Princes, and their sole Ministers, have in vain endeavoured to establish an arbitrary Government, without the Assistance or Shew of a Parliament: They have endeavoured to do it by open Force, and by open Force they have been all disappointed, and the Ministers often hanged; but by the slow and silent Approaches of Corruption, especially now the Crown has got such a Variety of Means in its Power, an arbitrary Government, more destructive and more expensive than the other, may be established by the Authority, and supported by the Shadow of a Parliament; for if a Prince, or his sole Minister, should ever have it in his Power to have always a corrupt Majority in each House of Parliament, a *British* Parliament will be no more than a *Turkish* Divan.

Corruption is therefore, my Lords, of all Dangers, the greatest our Constitution can be exposed to, and the most to be apprehended. Its Approach is imperceptible, but its Blow, if not prevented, is fatal; and you cannot prevent its Blow, unless you prevent its Approach. The Laws now in being for excluding Pensioners from having Seats in the other House, were designed as a Safe-guard against Corruption's entering, in one Shape at least, within the Walls of that House; and when we are considering, whether those Laws ought to be enforced, we have no Occasion for examining into late Measures, or for supposing that any late Practices have been made use of for corrupting the Members of either House. We have now as much Reason to guard against the Approach of Corruption, as we had when those Laws were made; therefore, we are now to consider only the Laws themselves, and if they appear insufficient, they ought to be amended, whether any corrupt Practices have lately been made use of or not. That these Laws are insufficient for the End intended, must, I think, plainly appear to every one that peruses them. There are Penalties,

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'tis true, inflicted upon Pensioners that shall presume to fit or vote in the other House; but it is evident that those Penalties can never be recovered, because the Fact can never be proved. A Pension or a Bribe may be given in such a Manner, that even he who gives it, can be no direct Witnesses against the Receiver; and it is always given in such a secret Manner, that the Criminal may have good Reason to think, his Crime can never be discovered. For this Reason, no Penalty you can inflict, will ever have a great Effect; and this makes it necessary, in Cases of Suspicion, to require an Oath from the Party suspected.

Ann. 13 Geo. II.

1739.

I shall not say, my Lords, that the Oath required by this Bill will have all the Effect that could be wished. There may be some so abandoned, as to despise the religious Ceremony of an Oath; but it will have an Effect upon a great many; and even the most abandoned will be shy of denying their having a Pension upon Oath, in the very Face, perhaps, of the Man who pays them their Pension. Nay, even Prudence itself will make Men shy of being guilty of Perjury, lest the Concealment of their Crime should afterwards be imputed to them as a Favour, and made use of as a Handle for obliging them to do as much dirty Work afterwards without a Pension, as they had done before for the Sake of a Pension. It is an old and a true Proverb, that when I trust a Man with my Secret, I make him my Master: An avaritious, or an extravagant, necessitous Man, may accept of iniquitous Wages from a Minister, and yet he would not, perhaps, chuse to be such an absolute Slave to that Minister, as he must be, should he put it in his Power to convict him of Perjury. Therefore, the Oath prescribed by this Bill, will certainly have a very great Effect; and as the Laws proposed to be enforced by this Bill, evidently appear to be insufficient, this Method of enforcing them ought to be chosen, at least till a more effectual one can be thought on.

What the noble Lords mean by present Danger, when they say we are in no present Danger from Corruption, I cannot comprehend. My Lords, it is an Evil we always have been, and always must be in Danger of. It has often been practised, it always will be practised, as often as Ambition in a Prince, or Wickedness or Weakness in a Minister, renders it necessary for him to have Recourse to such an infamous Practice. We may sometimes be said to be in no present Danger of an Invasion, yet would he not be look'd on as a Madman, who should make that an Argument for not repairing our Navy, especially if, upon Enquiry, it should appear to be unfit for Service?

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Ann. 12 Geo. II.

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Without finding Fault with any late Measures, without accusing any one in the Administration, I will affirm, my Lords, that we are now in greater Danger from Corruption, than we were either in the 4th and 5th of Queen Anne, or in the first of his late Majesty's Reign; for the more Power the Ministers of the Crown have to corrupt, whether they make use of that Power or no, the more Danger we are in from Corruption; and every one knows, that the Ministers of the Crown have now a much greater Power to corrupt, than they had at either of those Periods. This should make us resolve in Time, to take all the Methods that can be thought of for guarding against the Use of that Power; for it is already so great, that if we should have the Misfortune to fall under a Prince or Administration that will make use of it, I fear, it would then be impossible for us to guard against it. On the contrary, if the Means of Corruption now in the Power of the Crown, should be thought insufficient for securing a perpetual, corrupt Influence over both Houses of Parliament, such an Administration would take hold of every Grievance, every War, every Misfortune, the Nation could be exposed to, for encreasing those Means, in order to render the Effect infallible; and unless a most extraordinary Spirit of Virtue, as well as Jealousy, should begin to exert itself, I'm afraid, it would be impossible, as the Laws stands at present, to prevent their Success by any legal or peaceable Method. For this Reason, my Lords, I look upon the present Question to be a Sort of Tryal of Skill, the Fate of which is to determine, whether or no our Constitution is hereafter to be destroyed by Corruption, and the People reduced to the fatal Necessity of endeavouring to restore it by the Sword. If this should ever come to be the unlucky Fate of this Nation, those who now oppose our making use of legal Means for preserving our Constitution, whilst it is yet in our Power, will have no great Reason to rejoice in their past Conduct.

Let us consider, my Lords, the vast Sums of Money that are now at the Disposal, or under the Direction of the Crown; the infinite Number of lucrative Posts, Places, and Employments, most of them unknown to our Ancestors, now depending upon the sole and arbitrary Pleasure of the Crown; and the great Variety of penal Laws, by one or other of which the most Innocent may be made to suffer, the most Cautious may be entrapped, and from which the most Guilty may be screened, by Virtue of that dispensing or mitigating Power, which, with respect to many of them, is now lodged in the Officers of the Crown: Let us, I say, my Lords, consider these Things, and we must acknowledge, that the present

present Danger we are in, of having our Parliament converted into a *Turkish* Divan, is far from being imaginary ; and when we are under such well grounded Apprehensions shall we rack our Invention for visionary Dangers, in order to excuse our agreeing to any Method for guarding against a Danger so real, and which may, upon the first Change of Ministers or Measures, become inevitable and irresistible ?

Ann. 13 Geo. II.

1739.

I must confess, my Lords, I do not know what the noble Lord means, when he says, the Balance of our Constitution will be destroyed by Means of that separate and distinct new Power which, by this Bill, is lodged in the other House. I do not know of any Power that is by this Bill to be lodged in the other House, but the Power of turning a Man out, that ought not, that cannot, by the Laws now in Being, sit or vote there ; and this is a separate and distinct Power which that House now enjoys, and which has been always allowed. This Bill can, therefore, make no Alteration in what the noble Lord calls the Balance of our Constitution : but if by this Bill, or some such Bill, we do not prevent corrupt and mercenary Slaves from entering into that House, I can foresee where the Balance of our Constitution will soon come to be : It will soon come to be lodged in the Pocket of the Prime Minister for the Time being ; and if our Liberties and Privileges depend upon that Balance, they will then be lodged in the same Place, which, in my Opinion, is the worst Repository they can be lodged in.

I therefore hope your Lordships will, by passing this Bill, take Care that no Prime Minister shall ever be able to get the Balance of our Constitution into his Pocket ; but I must here observe, that what is called the Balance, and, indeed, the Security of our Constitution, consists not in the Power which any of the three Branches of our Legislature has over itself, or any of its own Members, but in no one of them having a Power over either of the other two. As the three Branches of our Legislature are distinct, they ought to be independent ; at least they ought to have no Dependency, but what proceeds from the public Good, and the mutual Happiness of the three ; for if any one of them should ever, by Force or Corruption, get the absolute Direction or Command of the other two, our Constitution will then be undone, tho' the Forms of it might, perhaps, be preserved, in order to deceive the Vulgar and Ignorant. This is the Misfortune intended to be guarded against by this Bill ; and it is not of late Years only, that this good Intention has been set on Foot. In the End of the late Queen's Reign, there was just such another Bill brought into this House, which at that Time met with so good a Reception here, that it was thrown

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Ann. 13 Geo. II.

1739.

out but by one Vote ; and its meeting with that Fate was occasioned by the Fault of one noble Lord, who, at the Time the Question was put, happened to be in the Court of Requests, buying a Pen-knife, with two Proxies in his Pocket.

I shall acknowledge, my Lords, that I do not think the Bill now before us so perfect as it ought to be ; but all its Defects may, I think, be easily remedied by proper Clauses and Amendments in the Committee ; and if your Lordships go into a Committee upon it, I shall contribute the little I can towards making it a perfect Bill : I shall probably offer some Clauses, and particularly I think, it will be necessary to add one for punishing the Corruptor as well as the Corrupted. It is criminal to receive, but much more criminal to give a Bribe, and therefore the latter ought to be more severely punished : The very Attempt ought to be severely punished ; and this, perhaps, would be as effectual a Method as any, to prevent the committing of the Crime ; for if it were made penal to offer, directly or indirectly, to give or receive a Bribe, or corrupt Pension, the Practice would become extremely dangerous, because he that offers cannot be beforehand assured, that the other will not, instead of accepting, become an Evidence against him. In short, my Lords, if the Commons were serious, when they passed and sent us up this Bill, we ought to assist them as much as we can in purging their Assembly, or at least, in keeping it clean, from all Corruption. Whether they were serious or not, is, indeed, what I shall not determine ; for I must confess, I have some Suspicions, when I consider, that this Bill was passed unanimously in that very Assembly, which soon after disagreed to a Motion for bringing in a Bill to exclude Placemen from having Seats in their House. There is such an Affinity between a Pension and a Sine-Cure-Place with a good Salary, depending upon the Pleasure of the Crown, that I am not quick-sighted enough to discern the Difference ; and therefore, I cannot see the Reason, why any Member of the other House that was seriously resolved to exclude Pensioners from that Assembly, should disagree to the bringing in a Bill for excluding at least some Sorts [of Placemen. But, my Lords, if the other House, or any Part of it, was not serious when they passed this Bill, I think, we should make them so, by sending it back with such Additions and Amendments, as they can find no Shadow of Reason for disagreeing to. By this Means, we may get a Bill passed into a Law, which will be of infinite Service for securing our Constitution, and which we could not, perhaps, have got their Concurrence in, if the Bill had been first modelled and brought in here.

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The Bishop of Salisbury.

‘ My Lords, as this Bill, or a Bill of the like Nature and Tendency with this, has been often before us, and as often rejected, as it has been brought into this House, I have several Times had an Opportunity to give my Sentiments upon it. I have always given my Vote against it, and have before given my Reasons for so doing. My Opinion is still the same, because my Reasons have never, I think, been answered; nor has the least Care been taken in the forming of this Bill, or in its Progress through the other House, to obviate any of those Objections that have formerly been made against Bills of the same Nature; therefore I am convinced, that every Lord in this House remains fixed in his former Opinion; and from thence one may judge of the Fate this Bill may probably meet with here.

I could declaim against Corruption, and the Dangers we are exposed to from that Quarter, tho’ not with so much Eloquence, yet I hope with as much Zeal and Sincerity as any Lord in this House; but Corruption, my Lords, is not, nor ought it, I think, upon this Occasion, to be the Subject of our Discourse. It is, I know, a popular Topick: It is a Crime which those without Doors are always ready, without the least Shadow of Reason, to lay to the Charge of those within; and therefore those without, who are by far the most numerous, are always delighted, when they hear it inveighed against, without considering whether it be properly brought into the Debate. The Bill now before us has, ’tis true, the Resemblance of being a Bill against Corruption; but under the specious Pretence is concealed a most dangerous Attempt, to establish in the other House a distinct Power, which may render them altogether independent of, and consequently superior to the other two Branches of our Legislature. Upon such Occasions, my Lords, we ought to consider, that all Usurpations have been founded upon the most specious and plausible Pretences; and I shall readily grant, that the other House could not have thought of a more specious or plausible Pretence for acquiring to themselves a new and dangerous Power, than that of preventing Corruption; but I hope your Lordships will see through the Disguise, and prevent our Constitution’s being caught in the Snare.

If the other House were by this Bill, to acquire no new Powers, the principal Objection I have formerly made against such Bills as this would, indeed, be removed; but, my Lords, it is evident, that they are, even by this Bill, to acquire a new
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Ann. 13 Geo. II.
1739.

and a distinct Power. The Members of that House are all to declare and give an Account of every Gratuity, Reward, or Present, they receive from the Crown. Is there no Use to be made of this Declaration? If it should be turned to no Use, why should it be made? Why should the Necessity of making it be imposed upon any Man in the Kingdom? If an Use is to be made of it, by whom is that Use to be made? Why, by the other House, in a distinct and separate Capacity, and without the Concurrence of either of the other two Branches of the Legislature. Nay, they are to become superior to the chief Branch of our Legislature, to the Crown itself; for they are to judge of the Actions of the Crown, and may determine that a well merited Reward given by the Crown for the most eminent public Services, was a corrupt Reward given for a Gentleman's corrupt Behaviour in their Assembly. Is not this, my Lords, a new and a most dangerous Power? It is, in my Opinion, a Power absolutely inconsistent with our Constitution; for if the other House should once render themselves superior to the Crown, they would of course become superior to this House likewise, and would soon engross, as they have done before, the whole Power of our Government. They would either vote this House useless, as they have once done already, or they would render it insignificant, by making it entirely subservient to them.

Thus, I think, it is apparent, that our happy Constitution would be brought into greater Danger by this Bill's being passed into a Law, than it is in at present, or can ever well be, from Corruption. But, my Lords, how does this Bill guard against Corruption? In my Opinion, not in the least. The Members are to declare upon Oath every Gratuity or Reward they receive. If that Gratuity or Reward should be paid and received from a corrupt Motive, will this ever compel a Discovery? Can we suppose, that a Wretch so abandoned as to betray and sell his Country for a small Reward, will ever have any Regard to an Oath; especially in Cases where it is allowed, there is no Probability of convicting him of Perjury? We may as well, I think, make a Law for obliging a suspected Man to swear, that he has never robb'd upon the Highway. I hope, I shall be allowed to shew some Regard for Religion, by refusing to prostitute the sacred Solemnity of an Oath, in Cases where it is almost certain, a Man will rather perjure himself than confess his Guilt. The Laws of this Kingdom have always been extremely cautious of subjecting a Man to an Oath, in any Case where his Interest may be concerned. By the Common Law it is never done: Even in Equity, Frauds only are discoverable by the Oath of the Party;
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for if a Man be in any Danger of subjecting himself to a Penalty, he is not obliged to answer; and even as to Frauds, we seldom find any Discovery made, except in Cases where the Defendant is suspicious of the Plaintiff's having some latent Proofs against him. In this Case, therefore, as in all others of the like Nature, an Oath will be no Check upon wicked Men, who are ready to sell their Country for a Bribe or corrupt Reward; and it may be a Trap for the Honest and Virtuous, who have served their Country faithfully and effectually, and have most justly received from the Crown, a small Reward for their Service.

Ann. 13 Geo. II.
1739.

But suppose, my Lords, there were in this Case no such Danger; yet surely every Oath that is imposed by an express Law, ought to be such a one as may be understood by those that are to take it. The Oath proposed by this Bill is, I think, such a one as can be understood by no Man. Gratuity or Reward are Words so vague and indeterminate, that no Man can tell what to make of them. It is extremely difficult to settle the Boundary between a Favour and a Gratuity; and the Favours that may be conferred by the Crown upon the Subject, are so various, and so frequent, that there would be no End of declaring them, nor any Possibility of determining what was a Favour, and what a Gratuity. A Post given to a Gentleman's Brother or Son, nay, even to his Footman, at his Request, might be interpreted as a Gratuity; and would very probably be so by the other House, in case the Majority of them did not like his Face, and he had for some Time neglected to declare it. This would introduce so much Confusion, and is apparently so inconvenient for every Gentleman that has, or may have, the Honour to be a Member of the other House, that, I am persuaded, they would never have agreed to a Regulation so inconvenient, and at the same Time so ineffectual for the End pretended, if they had not had some other View than merely that of preventing Corruption.

Whether they were serious or not in passing this Bill, can be of no Consequence, my Lords, to us. If it were a good Bill, I should be for passing it, whether they were serious or not. But, as I think it a bad Bill, as I think it a Regulation altogether ineffectual for the End pretended, and very dangerous with regard to the End which I suppose to be concealed, therefore, I shall be against its passing, without considering in the least, whether or no the other House, or any Number of them, was serious in sending it up. If your Lordships think, we have now any just Apprehensions from Corruption: If we are in any present Danger of having a Majority of the other House made more subservient to the Crown than they ought to be, by

Ann. 13 Geo. II.

1739.

Penſions and pecuniary Rewards, any one that thinks ſo may preſent a Bill, or you may order the Judges to bring in a Bill, for obviating that Danger; but the Bill now before you is not only to imperfect, but ſo improper for attaining that End, that I think it impoſſible to make any Thing of it in the Committee; and therefore, I ſhall be againſt our taking up our Time, which may be otherwiſe ſo uſefully employed, with going into a Committee upon it.

For my own Part, my Lords, I do not think, we are in any immediate Danger from Corruption; I do not think, we can be in any ſuch Danger, while we enjoy the Happineſs of having his preſent Maſteſty upon the Throne. He will never aſk, he will never allow his Parliament to be aſk'd to do any Thing, but what is neceſſary for the public Good; and for ſuch Purpoſes no Penſion or Gratuities to any of the Members will ever be neceſſary, unleſs Faction, Sedition, and Diſaffection ſhould get Poſſeſſion of a great Majority of the Nation, which, I hope, will never be the Caſe. We have, therefore, no immediate Call to contrive any new Barriers againſt Corruption, and if any of his Maſteſty's Succeſſors ſhould form ambitious Views againſt our Liberties, and think of rendering thoſe Views ſucceſsful by Corruption, the Barriers we have already, will, I hope, be able to defend our Liberties againſt ſuch Attempt, till our Poſterity can raiſe new and more effectual Barricades againſt the Approach of that political Diſtemper.

I hope, my Lords, I ſhall always be as jealous of the Liberties of my Country as any reaſonable Man ought to be, and I confeſs, we ought always to look with a jealous Eye upon the new Projects formed by Miniſters; but there is another Set of Men, upon whom we ought likewiſe to look with a jealous Eye, and that is, thoſe Gentlemen who, under the Pretence of preſerving or ſecuring our Liberties, are for new modelling our Conſtitution, at a Time when there is no apparent, much leſs an imminent Danger. Securing our Liberties has been before now made a Pretence for deſtroying them, and the Vulgar and Ignorant are always fond of every Thing that's new, which has too often rendered ſuch Deſigns ſucceſsful. The Bill now before us, I think, I have ſome Reaſon to conſider in this Light, and the more ſo, becauſe of the Motion that was ſince made in the other Houſe, for excluding all Placemen, except a very few, from having Seats in that Aſſembly. Both theſe Regulations were, I find, promoted by the ſame Men; and if both had ſucceeded, our happy Conſtitution would have been brought into the moſt imminent Danger; for the Crown would then have been under a Neceſſity of employing none but Perſons of low Rank in its Service, which would of courſe have

have rendered the Service contemptible, and might very probably have produced such a Civil War as we had, but last Century, between our Sovereign and his Parliament. A noble Historian has observed, that, in King *Charles the First's* Time, the Arts and Clamours of the disaffected Party at last so far prevailed, that it became scandalous to serve the Crown, which so weakened the Hands of the Crown, and so much exalted the Power of the leading Men in the other House, that they involved their Country in a bloody and destructive War, overfet our Monarchy, and at last turned your Lordships out of Doors. These wicked Designs began to be formed in the Year 1640, and if these two new Regulations had meet with Success, I should have had the Sorrow to suspect, that some such Designs were now in Embryo; but thank God, one of them was defeated, upon its first Appearance, in the House of Commons; and, I hope, the other will be defeated by your Lordships.

Ann. 13 Geo. II.
1739.

The Lord Carteret.

‘ My Lords, it signifies nothing to make Declamations against Corruption, unless we do something against it. I believe, no Man ever yet ventured to declaim seriously in its Favour; but many have declaimed powerfully against it, and yet, at the same Time, have as powerfully, and much more effectually, recommended it by their Practice. The People without Doors will but little regard what we say against Corruption; but the Example of this House will have a great Effect. Let us convince them by what we do, that no Lord of this House is guilty of being corrupted, which I am convinced, is the Case, and the Crime will sink by the Weight of its own Infamy. But if your Lordships, by rejecting this Bill, should raise but a Suspicion, that any of you are guilty, that every Suspicion will give Countenance to the low Tools of Corruption; and your supposed Example will establish and propagate a real Practice.

I am extremely sorry, my Lords, to hear his Majesty's Name mentioned upon this Occasion. I would not be so unjust, even to his Majesty's Ministers, as to attempt to vindicate them upon such an Occasion; because a Vindication always supposes some previous Reproach. The Confidence we have in his Majesty's Wisdom and Justice, makes such a Vindication with respect to him, absolutely unnecessary; and, I hope, no one of his Ministers stands in need of any Vindication upon this Head. But suppose some one of his Majesty's Successors should be suspected, should be known to have Designs against our Liberties, suppose his Ministers should be known to make

Ann. 13 Geo. II.

1739.

use of Pensions and Bribes, in order to render their Master's Designs successful, and suppose such a Bill as this should be brought into either House of Parliament, in order to put a Stop to such dangerous Practices, would any Member rise up in his Place, and accuse his Sovereign of having such Designs? Would any Member of either House stand up in his Place, and directly accuse a Minister, even tho' he had the most evident Proofs of his being guilty of corrupting the Members? My Lords, no Member would be such a Madman, unless he were well assured of having a Majority in both Houses against Corruption; and this he could no way be assured of, but by the Success of the Bill. Were those Designs of the Prince, and those Practices of his Ministers, as apparent as the Sun at Noon-day, both the Prince and the Minister would be vindicated by their Tools in Parliament; and the Patrons of the Bill, till they saw its Fate, would then do, out of Prudence, what we now do out of Justice, at least with respect to his Majesty. They would pass Compliments upon the Prince then upon the Throne, they would, perhaps, even compliment his Ministers; but as soon as they had, by the Success and Effect of their Bill, cleared the two Houses from Corruption, they might then probably begin to talk in another Strain, with regard to the Ministers; because upon removing the Corrupted, it would be easy to make the Crimes of the Corruptor appear.

The Question now before us, my Lords, does not relate to Persons, but to Things. It does not relate to his present Majesty, or his next Successor; nor to the present, or any future Administration. The Question is, whether we should be in Danger of having our Constitution overturned by Means of Corruption, supposing we had a Prince upon the Throne that would attempt it, and an Administration that would, in the most cunning Manner, use all the Methods now in the Power of the Crown for accomplishing it. This is the proper Question now before us, and if your Lordships do not answer this Question in the Affirmative, I will be bold to say, you differ in Opinion from nine tenths of the Nation, I believe, I may say, from ninety nine out of a Hundred of those who are not misled in their Judgment by some corrupt Prejudice. But if you do answer it in the Affirmative, you must allow, that the Danger itself is present, tho' we may depend upon our not falling into it during his present Majesty's Life. Therefore, in Prudence, we ought to provide against it, whilst it is in our Power; for it is a Sort of Danger from whence there is no legal Recovery; if we once fall into it, it will be impossible to get any Law passed for preventing Corruption. The Rev. Prelate, when he says, he hopes, our Posterity may at such a Conjunction be able to raise new Bar-
ricades

ricades against Corruption, seems to forget, that no new Bar-
ricade can be raised without the Royal Assent; and will a
Prince who intends to rule by Corruption, give the Royal
Assent to any Bill for preventing it? Will not all corrupt
Methods be made use of to prevent such a Bill's passing both
Houses? And if it should, by a miraculous Flow of Virtue
on one Side, and very imprudent or rash Management on the
other, be carried through both Houses, may not the Prince
prevent its being passed into a Law, till that Flow of Vir-
tue subsides, or till he can fall upon Methods to apply more pro-
perly the infinite Means of Corruption now lodged in the Crown.

It will, therefore, be hardly possible to recover from the
Danger of losing our Liberties by Corruption, after we have
once actually fallen into it. Other Dangers we may recover
from, because we become sensible of them before we have
lost our Strength; but Corruption, like a Consumption, is a
Distemper that comes by slow Degrees, and enfeebles as it
approaches; so that before we become sensible of our Danger,
we have no Strength to use the proper Remedies, and often
think we are in perfect Health when we are just expiring.
For this Reason, my Lords, the Dependence we have upon
his present Majesty's Wisdom and Goodness, the Confidence
we have, that no corrupt Practices have of late been made
use of, are so far from being Arguments against the Bill, that
they are strong Arguments in its Favour. A Time like this,
is the only Time we can take for preventing such a con-
tagious Distemper; for if the infected should once get the
Power into their Hands, they will lock up instead of being
lock'd up by the Healthful. Therefore if this Bill can be
supposed to have any Effect, and cannot be supposed liable
to any very great Inconvenience, we ought to embrace the
favourable Opportunity we now have, of doing, as well as
declaiming against Corruption.

As to the Objections that have been made against some
particular Clauses or Expressions in the Bill, they are Reasons,
my Lords, not for rejecting but amending it: Nay, if we
despaired of being able to make a good Bill of this now
before us, yet we ought to go into a Committee upon it,
that every Lord may give his Sentiments freely upon the
several Parts of it, and may offer what Clauses or Amend-
ments he thinks necessary for rendering it effectual; because,
from thence, a good and effectual Bill may be formed, and
made ready for being offered to the next Session of Parlia-
ment. For this Reason, I must think, that no Lord can
be against committing it, unless he be of Opinion, that the
Laws now in being are sufficient for preventing any corrupt
Influence in either House of Parliament; and however gen-
eral such an Opinion may be in this House, it is such a one

Ann. 13 Geo. II.

1739.

as will not, I am sure, meet with Approbation from the Generality of People without Doors; therefore, if this were really my Opinion, I should nevertheless, be, not only for committing, but for passing the Bill now under our Consideration, with such Amendments as may be thought proper in the Committee; because it would quiet the Minds of the People without Doors, and can be attended with no real Inconvenience, whatever may be pretended to the contrary.

I must confess, my Lords, I could not conceive what the Rev. Prelate meant, when he talk'd of a new and dangerous Power being to be added to the House of Commons by this Bill. If such a Bill should be passed into a Law, it will, indeed, add new Power to that House, because it will add to their Character, which is the chief, and the only solid Foundation of all Power; but if your Lordships reject such a Bill, after they have passed it, I am sure, it will lessen yours; and then, 'tis true, the Power of the other House may become dangerous; for if the Character, and, consequently, the Power of the other House should be raised and yours at the same Time lessened, you may not only put it in their Power, but you may make it necessary for them, to vote you useless a second Time. It was this very Thing that enabled them to do so about a Century ago. It was not the Arts, or the Clamours of the Disaffected, but the Measures pursued by the Court, that rendered it scandalous to serve the Crown in King *Charles* I's Time; and it was the supporting of such Measures, or at least preventing the Authors of them from being punished, that made this House forfeit its Character among the People. The Reverend Bench ought to remember the fatal Consequences occasioned by that Forfeiture and how much their Bench contributed to it, by their Behaviour at that Time. It was the imprudent and servile Behaviour of a Majority of this House, that then raised the Power of the other, removed the Reverend Prelates from amongst us, and, at last, made the House itself really useless, before it was voted so by the other; for when we have not Wisdom, Virtue and Courage enough to be a Check upon the other two Branches of the Legislature, we are really useless, whether are we voted so or no.

By this Bill, my Lords, there are no such Powers as the Reverend Prelate means, to be added to the other House: They are to acquire no Power, nor any Right, but what they already enjoy. They neither are, nor are, by this Bill, to be rendered superior to the Crown; but they are, and ought to be a Check upon the Crown; and if the public Money should be squandered away by the Crown, in unmerited or ill-merited Pensions and Gratuities, they might take Notice of it, and put a Stop to it, though no such

such Bill as this should pass into a Law: They ought to do so: They would be deficient in their Duty if they did not; and one of the Ends of this Bill is, to prevent that Deficiency; for it cannot be supposed, that a House of Commons would take Notice of, or put a Stop to, such Squandering, if a Majority of them were Receivers of such Pensions or Gratuities. Even with respect to their own Members, they are not, by this Bill, to acquire any new Power: They have already a Right to judge, whether any Gentleman that claims it, has a good Title to be a Member of their House; and this Bill is only to furnish them with a new, and a necessary Method for enquiring into that Title. A Pensioner has no more a Right to be a Member of the other House than a *Roman Catholic*: The latter may be chosen, and may take his Place there, if he will take the Oaths prescribed by Law; but those Oaths have been found to be an effectual Bar to *Roman Catholics*, and, I hope, the Oaths prescribed by this Bill, if it should pass into a Law, will be found to be an effectual Bar to Pensioners. If the Law had only inflicted a Penalty upon a *Roman Catholic* who should sit and vote in the other House, it would, certainly, have had no Effect, because of the Impossibility of proving the Offence; and as it is more difficult to prove a Man's being a Pensioner, than to prove a Man's being a *Roman Catholic*, is it possible to imagine, that the Laws now in being can be effectual, for preventing Pensioners from sitting and voting in the other House? Can any Reason be assigned for not taking that Method in the one Case which has been found so effectual in the other? A Gentleman's refusing to take the Oaths, is very much contrary to his private Interest, because it subjects him to several Penalties and Disabilities; yet, I believe, the Reverend Prelate will not say, that no such Oaths ought to be imposed, because of its promoting Perjury; and, I am convinced, even the Reverend Prelate will allow, we are now in greater Danger from Pensioners than from *Papists*.

But the Oath proposed by this Bill is, it seems, an unintelligible Oath, because the Words Favour and Gratuity cannot be certainly distinguished. My Lords, they are, I think, as distinct as any two Words in the *English* Language. No Man will suppose, that a Post granted to a Brother or Servant at his Request, is a Gratuity to him, unless he is to reap some Benefit by the Grant. But suppose a Man should think so, and, therefore, give an Account of it to the House, where would be the Harm? Such a Declaration would give the other House no greater Power than they have at present. They might, perhaps, pass a wrong Judgement, and turn him out of their House
when

when they ought not; but may not they do the same as the Case now stands? And will you prevent its being in their Power to come at the Truth of a Fact, lest they should pass a wrong Judgment when they have come at that Truth? That Judgment would subject no Man to a Penalty; for the Penalties are to be recovered only at Common Law; and it cannot be supposed, the Judges would condemn a Man, for sitting in the other House after he had got a little Post for his Servant, or a great one for his Brother, unless it appeared, that the Member was quartered upon his Brother, which may sometimes be the Case.

But, I believe, my Lords, we have no Occasion to be afraid of the other House's misinterpreting a Favour, or even a Reward, and taking it for a Pension or Bribe, if the Receiver be such a one as has truly merited the Reward. If Admiral *Vernon* were now a Member of the other House, and should receive a Reward from the Crown for the Service he has done his Country, would any Member look upon it as a Bribe? No one would; and, I believe, he would soon convince them, he did not himself look upon it as such. There is not, my Lords, the least Danger, that ever the other House will call a Favour, or deserved Reward, a Pension or Bribe: The Danger is wholly upon the other Side of the Question. The other House may now call that a Favour or deserved Reward which is really a Bribe, and even though this Bill should pass into a Law, they may do the same; but in this Case, no more than the other, the Judges, when the Affair comes before them by way of Prosecution for the Penalty, are not obliged to abide by the Determination of the House of Commons; and there is not near so much Danger of the other House's passing a wrong Judgment in this respect, when all Favours and Rewards are declared and acknowledged publicly, as when most of them remain in Petto of the Corruptor and Corrupted only.

I hope, I have now answered all the Objections made against committing this Bill, and, therefore, I shall conclude observing to your Lordships, that if you reject it, all those who think we are in Danger from Corruption, will conclude, that it is already become impossible to guard against it by any legal Means, and will, therefore, begin to think of some other Method for preserving our Constitution, which may prove of dangerous Consequence to the illustrious Family now upon our Throne. This, I am sure, will have great Weight with every one of your Lordships; and, therefore, if you consider it as you ought, the Question must, I think, meet with the unanimous Concurrence of this House, and the Bill itself, with the Assistance of every one of your Lordships, towards rendering it a perfect Bill.

T H E
I N D E X
O F

Protesting L O R D S.

A.

A *Bingdon*, Page 188.
Aylesford, 188.

B.

Bathurst, 188.
Beaufort, 188.
Boyle, (Earl of *Orrery*) 188.
Bristol, 188.
Bruce, (Earl of *Ailsbury*) 188.
Burlington, 188.

C.

Carteret, 188.
Chesterfield, 188.
Clifton, (Earl of *Darnley*) 188.
Clinton, 188.
Cobham, 188.
Coventry, 188.

F.

Foley, 188.

G.

Gainborough, 188.
Gower, 188.

F f f

Grabam

I N D E X.

Grabam, Page 188.

Greenwich, 188.

H.

Haversham, 188.

Huntington, 188.

K.

Ker, 188.

L.

Lincoln, Bishop of, *Dr. Reynolds*, 188.

Litchfield, 188.

M.

Macclesfield, 188.

Malham, 188.

Maynard, 188.

Montjoy, 188.

N.

Northampton, 188.

O.

Oxford, 188.

R.

Raymond, 188.

S.

Shaftsbury, 188.

Stanbope, 188.

Strafford, 188.

Suffolk, 188.

T.

Talbot, 188.

Thanet, 188.

W.

Westmoreland, 188.

Winchelsea, 188.

INDEX

OF

SPEAKERS.

A

A *Bbingdon*, Earl of, Page 18, 19, 42.
Argyle, Duke of 30, 84, 212, 229, 238, 327, 393.
Aylsford, Earl of 228.

B.

Batburst, Lord 24, 150, 195, 227 235, 335.
Bedford, Duke of 35, 274.

C.

Carlisle, Earl of 283.
Carteret, Lo 7, 8, 9, 10, 12, 37, 41, 55, 106,
189, 199, 230, 250, 266, 350, 366, 401.
Chesterfield, Earl of 144, 117, 142, 218, 232, 284, 359.
Cholmondely, Earl of 3, 45, 115, 235, 348, 372.

D.

Delawar, Lord 16, 18, 39, 42, 189, 341, 350.

H.

Hallifax, Earl of 232, 338, 377.
Hardwick, Lord (Chancellor) 20, 43, 46, 193, 237,
321, 334, 345, 363.

Hervey, Lord 26, 134, 194, 236, 290.
Hinton, Lord 254, 380.

I N D E X.

I.

Illa, Earl of, Page 29, 38, 170, 335.

L.

Lonsdale, Lord Viscount 237.

Lowel, Lord 20.

N.

Newcastle, Duke of 6, 8, 191, 196, 228, 232, 266, 346.

O.

Onslow, Lord 349.

S.

Salisbury, Bishop of (Dr. *Starlock*) 71.

Scarborough, Earl of 239, 295.

Strafford, Earl of 9.

T.

Talbot, Lord 23, 192, 276, 343.

W.

Walpole, Lord 372, 375.

Winchelsea, Earl of 324.







